

GZS Law Pages

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CAPC 166. Contempt of Court

- (a) Except as provided in subdivisions (b), (c), and (d), every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:
- (1) Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due to its authority.
 - (2) Behavior as specified in paragraph (1) committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.
 - (3) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.
 - (4) Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by any court, including orders pending trial.
 - (5) Resistance willfully offered by any person to the lawful order or process of any court.
 - (6) The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question.
 - (7) The publication of a false or grossly inaccurate report of the proceedings of any court.
 - (8) Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of the court, any affidavit or testimony or representation of any kind, verbal or written, in aggravation or mitigation of the punishment to be imposed upon the prisoner, except as provided in this code.
- (b)
- (1) Any person who is guilty of contempt of court under paragraph (4) of subdivision (a) by willfully contacting a victim by phone, mail, or directly and who has been previously convicted of a violation of Section 646.9 shall be punished by imprisonment in a county jail for not more than one year, by a fine of five thousand dollars (\$5,000), or by both that fine and imprisonment.
 - (2) For the purposes of sentencing under this subdivision, each contact shall constitute a separate violation of this subdivision.
 - (3) The present incarceration of a person who makes contact with a victim in violation of paragraph (1) is not a defense to a violation of this subdivision.
- (c)
- (1) Notwithstanding paragraph (4) of subdivision (a), any willful and knowing violation of any protective order or stay away court order issued pursuant to Section 136.2, in a pending criminal proceeding involving domestic violence, as defined in Section 13700, or issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence, as defined in Section 13700, which is an order described in paragraph (3), shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.
 - (2) If a violation of paragraph (1) results in a physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.
 - (3) Paragraphs (1) and (2) shall apply to the following court orders:
 - (A) Any order issued pursuant to Section 6320 or 6389 of the Family Code.
 - (B) An order excluding one party from the family dwelling or from the dwelling of the other.
 - (C) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the orders described in paragraph (1).
 - (4) A second or subsequent conviction for a violation of any order described in paragraph (1) occurring within seven years of a prior conviction for a violation of any of those orders and involving an act of violence or "a credible threat" of violence, as provided in subdivisions (c) and (d) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months or two or three years.
 - (5) The prosecuting agency of each county shall have the primary responsibility for the enforcement of the orders described in paragraph (1).
- (d)
- (1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.
 - (2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.
- (e)
- (1) If probation is granted upon conviction of a violation of subdivision (c), the court shall impose probation consistent with the provisions of Section 1203.097 of the Penal Code.
 - (2) If probation is granted upon conviction of a violation of subdivision (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:
 - (A) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars (\$1,000).
 - (B) That the defendant provide restitution to reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.
 - (3) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision or subdivision (c), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support.
 - (4) Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of subdivision (c), the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this subdivision, until all separate property of the offending spouse is exhausted.

- (5) Any person violating any order described in subdivision (c), may be punished for any substantive offenses described under Section 136.1 or 646.9. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1 or 646.9. However, any person held in contempt for a violation of subdivision (c) shall be entitled to credit for any punishment imposed as a result of that violation against any sentence imposed upon conviction of an offense described in Section 136.1 or 646.9. Any conviction or acquittal for any substantive offense under Section 136.1 or 646.9 shall be a bar to a subsequent punishment for contempt arising out of the same act.

CAPC 166.5.

- (a) After arrest and before plea or trial or after conviction or plea of guilty and before sentence under paragraph (4) of subdivision (a) of Section 166, for willful disobedience of any order for child, spousal, or family support issued pursuant to Division 9 (commencing with Section 3500) of the Family Code or Section 11475.1 of the Welfare and Institutions Code, the court may suspend proceedings or sentence therein if:
- (1) The defendant appears before the court and affirms his or her obligation to pay to the person having custody of the child, or the spouse, that sum per month as shall have been previously fixed by the court in order to provide for the minor child or the spouse.
 - (2) The defendant provides a bond or other undertaking with sufficient sureties to the people of the State of California in a sum as the court may fix to secure the defendant's performance of his or her support obligations and that bond or undertaking is valid and binding for two years, or any lesser time that the court shall fix.
- (b) Upon the failure of the defendant to comply with the conditions imposed by the court in subdivision (a), the defendant may be ordered to appear before the court and show cause why further proceedings should not be had in the action or why sentence should not be imposed, whereupon the court may proceed with the action, or pass sentence, or for good cause shown may modify the order and take a new bond or undertaking and further suspend proceedings or sentence for a like period.

CAPC 270. Criminal Nonsupport

If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison for a determinate term of one year and one day, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so. Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

The court, in determining the ability of the parent to support his or her child, shall consider all income, including social insurance benefits and gifts. The provisions of this section are applicable whether the parents of such child are or were ever married or divorced, and regardless of any decree made in any divorce action relative to alimony or the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as this section is concerned. The husband of a woman who bears a child as a result of artificial insemination shall be considered the father of that child for the purpose of this section, if he consented in writing to the artificial insemination. If a parent provides a minor with treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof, such treatment shall constitute "other remedial care", as used in this section.

CAPC 270.5.

- (a) Every parent who refuses, without lawful excuse, to accept his or her minor child into the parent's home, or, failing to do so, to provide alternative shelter, upon being requested to do so by a child protective agency and after being informed of the duty imposed by this statute to do so, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500).
- (b) For purposes of this section, "child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.
- (c) For purposes of this section, "lawful excuse" shall include, but not be limited to, a reasonable fear that the minor child's presence in the home will endanger the safety of the parent or other persons residing in the home.

CAPC 270a.

Every individual who has sufficient ability to provide for his or her spouse's support, or who is able to earn the means of such spouse's support, who willfully abandons and leaves his or her spouse in a destitute condition, or who refuses or neglects to provide such spouse with necessary food, clothing, shelter, or medical attendance, unless by such spouse's conduct the individual was justified in abandoning such spouse, is guilty of a misdemeanor.

CAPC 270b.

After arrest and before plea or trial, or after conviction or plea of guilty and before sentence under either Section 270 or 270a, if the defendant shall appear before the court and enter into an undertaking with sufficient sureties to the people of the State of California in such penal sum as the court may fix, to be approved by the court, and conditioned that the defendant will pay to the person having custody of such child or to such spouse, such sum per month as may be fixed by the court in order to thereby provide such minor child

or such spouse as the case may be, with necessary food, shelter, clothing, medical attendance, or other remedial care, then the court may suspend proceedings or sentence therein; and such undertaking is valid and binding for two years, or such lesser time which the court shall fix; and upon the failure of defendant to comply with such undertaking, the defendant may be ordered to appear before the court and show cause why further proceedings should not be had in such action or why sentence should not be imposed, whereupon the court may proceed with such action, or pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend proceedings or sentence for a like period.

CAPC 270c.

Except as provided in Chapter 2 (commencing with Section 4410) of Part 4 of Division 9 of the Family Code, every adult child who, having the ability so to do, fails to provide necessary food, clothing, shelter, or medical attendance for an indigent parent, is guilty of a misdemeanor.

CAPC 270d.

In any case where there is a conviction and sentence under the provisions of either Section 270 or 270a, should a fine be imposed, such fine shall be directed by the court to be paid in whole or in part to the spouse of the defendant or guardian or custodian of the child or children of such defendant, except as follows: If the children are receiving public assistance, all fines, penalties or forfeitures imposed and all funds collected from the defendant shall be paid to the county department. Money so paid shall be applied first to support for the calendar month following its receipt by the county department and any balance remaining shall be applied to future needs, or be treated as reimbursement for past support furnished from public assistance funds.

CAPC 270e.

No other evidence shall be required to prove marriage of husband and wife, or that a person is the lawful father or mother of a child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under either Section 270a or 270 of this code, Sections 970, 971, and 980 of the Evidence Code do not apply, and both husband and wife shall be competent to testify to any and all relevant matters, including the fact of marriage and the parentage of a child or children. Proof of the abandonment and nonsupport of a spouse, or of the omission to furnish necessary food, clothing, shelter, or of medical attendance for a child or children is a prima facie evidence that such abandonment and nonsupport or omission to furnish necessary food, clothing, shelter or medical attendance is willful. In any prosecution under Section 270, it shall be competent for the people to prove nonaccess of husband to wife or any other fact establishing nonpaternity of a husband. In any prosecution pursuant to Section 270, the final establishment of paternity or nonpaternity in another proceeding shall be admissible as evidence of paternity or nonpaternity.

CAPC 270f.

Where, under the provisions of this chapter, a report is filed by a parent of a child with the district attorney averring:

- (1) That the other parent has failed to provide necessary support and
- (2) That neither the child in need of assistance nor another on his behalf is receiving public assistance, the district attorney shall immediately investigate the verity of such report and determine the defaulting parent's location and financial ability to provide the needed support, and upon a finding that the report is true shall immediately take all steps necessary to obtain support for the child in need of assistance.

CAPC 270g.

A review of each report filed with the district attorney under Section 270f shall be made at 90-day intervals unless the support payments have been legally terminated, the parties involved are permanently located beyond county jurisdiction, or the defaulting parent is complying with the provisions of this chapter.

CAPC 270h.

In any case where there is a conviction under either Section 270 or 270a and there is an order granting probation which includes an order for support, the court may:

- (a) Issue an execution on the order for the support payments that accrue during the time the probation order is in effect, in the same manner as on a judgment in a civil action for support payments. This remedy shall apply only when there is no existing civil order of this state or a foreign court order that has been reduced to a judgment of this state for support of the same person or persons included in the probation support order.
- (b) Issue an earnings assignment order for support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code as a condition of probation. This remedy shall apply only when there is no existing civil order for support of the same person or persons included in the probation support order upon which an assignment order has been entered pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code or pursuant to former Chapter 5 (commencing with Section 4390) of Title 1.5 of Part 5 of Division 4 of the Civil Code. These remedies are in addition to any other remedies available to the court.

CACC 39 - Unsound Mind

- (a) A conveyance or other contract of a person of unsound mind, but not entirely without understanding, made before the incapacity of the person has been judicially determined, is subject to rescission, as provided in Chapter 2 (commencing with Section 1688) of Title 5 of Part 2 of Division 3.
- (b) A rebuttable presumption affecting the burden of proof that a person is of unsound mind shall exist for purposes of this section if the person is substantially unable to manage his or her own financial resources or resist fraud or undue influence. Substantial inability may not be proved solely by isolated incidents of negligence or improvidence.

BILL NUMBER: SB 933 AMENDED

http://info.sen.ca.gov/pub/bill/sen/sb_0901-0950/sb_933_bill_20030909_amended_asm.html

BILL TEXT

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003
AMENDED IN ASSEMBLY SEPTEMBER 2, 2003
AMENDED IN SENATE MARCH 26, 2003

INTRODUCED BY Senator Dunn

(Principal ~~coauthor: Assembly Member~~
~~coauthors: Assembly Members Montanez and Nunez~~)
(Coauthors: Senators Cedillo, Escutia, and Romero)

FEBRUARY 21, 2003

An act to add Section 354.9 to the Code of Civil Procedure relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

SB 933, as amended, Dunn. Victims of wrongful or coerced repatriation.

Existing law authorizes various persons to bring civil actions for damages under specified circumstances.

This bill would authorize a victim of unconstitutional, wrongful, or coerced repatriation, defined as any United States citizen or legal resident of Mexican descent who was coerced, forced, or falsely induced to emigrate from California during the period from 1929 to 1944, inclusive, or the victim's heir or beneficiary, to bring a legal action to recover damages in any court of competent jurisdiction in this state. This provision would apply if the victim was coerced, forced, or falsely induced to emigrate by any city, county, or state governmental authority, or anyone acting under color of that authority, including, *but not limited to*, any private individual or business entity. The provision would also apply only if that person resides in this state and has a claim arising out of that unconstitutional, wrongful, or coerced repatriation, as specified. The bill would also provide that any action brought pursuant to this provision may not be dismissed for failure to comply with the applicable statute of limitations or to exhaust any applicable administrative remedies or governmental tort claims procedures, if the action is commenced on or before December 31, 2006.

This bill would specify that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 354.9 is added to the Code of Civil Procedure, to read:

CACP 354.9.

(a) The following definitions govern the construction of this section:

- (1) "Victim of unconstitutional, wrongful, or coerced repatriation" means any United States citizen or legal resident of Mexican descent who was coerced, forced, or falsely induced to emigrate from California during the period from 1929 to 1944 inclusive, by any city, county, or state governmental authority, or anyone acting under color of that authority, including, but not limited to, any private individual or business entity that conspired with any city, county, or state governmental authority, or anyone acting under color of that authority, to violate the California constitutional or property rights of that person.
 - (2) "Damages" means any and all damages for any harm, loss, or detriment sustained by any victim of unconstitutional, wrongful, or coerced repatriation by reason of the coerced, forced, or falsely induced emigration from California by any city, county, or state governmental authority, or anyone acting under color of that authority, including, but not limited to, any private individual or business entity that conspired with any city, county, or state governmental authority, or anyone acting under color of that authority, to violate the California constitutional or property rights of any victim of unconstitutional, wrongful, or coerced repatriation.
- (b) Notwithstanding any other provision of law, any victim of unconstitutional, wrongful, or coerced repatriation, or the heir or beneficiary of a victim of unconstitutional, wrongful, or coerced repatriation, who resides in this state and has a claim arising out of the victim's coerced, forced, or falsely induced emigration from California by any city, county, or state governmental authority, or anyone acting under color of that authority, including, but not limited to, any private individual or business entity that conspired with any city, county, or state governmental authority, or anyone acting under color of that authority, to violate the California constitutional or property rights of any victim of unconstitutional, wrongful, or coerced repatriation, may bring a legal action to recover any damages in any court of competent jurisdiction in this state, which court shall be deemed the proper forum for that action until its completion or resolution.
- (c) Any action brought under this section may not be dismissed for failure to (1) comply with the applicable statute of limitations, or (2) exhaust any applicable administrative remedies or governmental tort claim procedures otherwise provided by any statute, if the action is commenced in any California court of competent jurisdiction on or before December 31, 2006.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

CACP 685.010.

- (a) Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied.
- (b) The Legislature reserves the right to change the rate of interest provided in subdivision (a) at any time to a rate of less than 10 percent per annum, regardless of the date of entry of the judgment or the date any obligation upon which the judgment is based was incurred. A change in the rate of interest may be made applicable only to the interest that accrues after the operative date of the statute that changes the rate.

CACP 685.020.

- (a) Except as provided in subdivision (b), interest commences to accrue on a money judgment on the date of entry of the judgment.
- (b) Unless the judgment otherwise provides, if a money judgment is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

CACP 685.030.

- (a) If a money judgment is satisfied in full pursuant to a writ under this title, interest ceases to accrue on the judgment:
 - (1) If the proceeds of collection are paid in a lump sum, on the date of levy.
 - (2) If the money judgment is satisfied pursuant to an earnings withholding order, on the date and in the manner provided in Section 706.024 or Section 706.028.
 - (3) In any other case, on the date the proceeds of sale or collection are actually received by the levying officer.
- (b) If a money judgment is satisfied in full other than pursuant to a writ under this title, interest ceases to accrue on the date the judgment is satisfied in full.
- (c) If a money judgment is partially satisfied pursuant to a writ under this title or is otherwise partially satisfied, interest ceases to accrue as to the part satisfied on the date the part is satisfied.
- (d) For the purposes of subdivisions (b) and (c), the date a money judgment is satisfied in full or in part is the earliest of the following times:
 - (1) The date satisfaction is actually received by the judgment creditor.
 - (2) The date satisfaction is tendered to the judgment creditor or deposited in court for the judgment creditor.
 - (3) The date of any other performance that has the effect of satisfaction.
- (e) The clerk of a court may enter in the Register of Actions a writ of execution on a money judgment as returned wholly satisfied when the judgment amount, as specified on the writ, is fully collected and only an interest deficit of no more than ten dollars (\$10) exists, due to automation of the continual daily interest accrual calculation.

CACP 685.040. The judgment creditor is entitled to the reasonable and necessary costs of enforcing a judgment. Attorney's fees incurred in enforcing a judgment are not included in costs collectible under this title unless otherwise provided by law. Attorney's fees incurred in enforcing a judgment are included as costs collectible under this title if the underlying judgment includes an award of attorney's fees to the judgment creditor pursuant to subparagraph (A) of paragraph (10) of subdivision (a) of Section 1033.5.

CACP 685.050.

- (a) If a writ is issued pursuant to this title to enforce a judgment, the costs and interest to be satisfied in a levy under the writ are the following:
 - (1) The statutory fee for issuance of the writ.
 - (2) The amount of interest that has accrued from the date of entry or renewal of the judgment to the date of issuance of the writ, as adjusted for partial satisfactions, if the judgment creditor has filed an affidavit with the court clerk stating such amount.
 - (3) The amount of interest that accrues on the principal amount of the judgment remaining unsatisfied from the date of issuance of the writ until the date interest ceases to accrue.
 - (4) The levying officer's statutory costs for performing the duties under the writ.
- (b) In a levy under the writ, the levying officer shall do all of the following:
 - (1) Collect the amount of costs and interest entered on the writ pursuant to paragraphs (1) and (2) of subdivision (a).
 - (2) Compute and collect the amount of additional interest required to be collected by paragraph (3) of subdivision (a) by reference to the daily interest entered on the writ. If amounts collected periodically do not fully satisfy the money judgment, the levying officer may, pursuant to a policy adopted by the office of the levying officer, adjust the amount of daily interest to reflect the partial satisfactions, and make later collections by reference to the adjusted amount of daily interest.
 - (3) Determine and collect the amount of additional costs pursuant to paragraph (4) of subdivision (a).

CACP 685.070.

- (a) The judgment creditor may claim under this section the following costs of enforcing a judgment:
 - (1) Statutory fees for preparing and issuing, and recording and indexing, an abstract of judgment or a certified copy of a judgment.
 - (2) Statutory fees for filing a notice of judgment lien on personal property.
 - (3) Statutory fees for issuing a writ for the enforcement of the judgment to the extent that the fees are not satisfied pursuant to Section 685.050.
 - (4) Statutory costs of the levying officer for performing the duties under a writ to the extent that the costs are not satisfied pursuant to Section 685.050 and the statutory fee of the levying officer for performing the duties under the Wage Garnishment Law to the extent that the fee has not been satisfied pursuant to the wage garnishment.
 - (5) Costs incurred in connection with any proceeding under Chapter 6 (commencing with Section 708.010) of Division 2 that have been approved as to amount, reasonableness, and necessity by the judge or referee conducting the proceeding.
 - (6) Attorney's fees, if allowed by Section 685.040.

(b) Before the judgment is fully satisfied but not later than two years after the costs have been incurred, the judgment creditor claiming costs under this section shall file a memorandum of costs with the court clerk and serve a copy on the judgment debtor. Service shall be made personally or by mail. The memorandum of costs shall be executed under oath by a person who has knowledge of the facts and shall state that to the person's best knowledge and belief the costs are correct, are reasonable and necessary, and have not been satisfied.

(c) Within 10 days after the memorandum of costs is served on the judgment debtor, the judgment debtor may apply to the court on noticed motion to have the costs taxed by the court. The notice of motion shall be served on the judgment creditor. Service shall be made personally or by mail. The court shall make an order allowing or disallowing the costs to the extent justified under the circumstances of the case.

(d) If no motion to tax costs is made within the time provided in subdivision (c), the costs claimed in the memorandum are allowed.

(e) If a memorandum of costs for the costs specified in subdivision (a) is filed at the same time as an application for a writ of execution, these statutory costs not already allowed by the court in an amount not to exceed one hundred dollars (\$100) in the aggregate may be included in the amount specified in the writ of execution, subject to subsequent disallowance as ordered by the court pursuant to a motion to tax if filed by the debtor. The memorandum of costs shall contain the following statement: "The fees sought under this memorandum may be disallowed by a court upon a motion to tax filed by the debtor notwithstanding the fees having been included in the writ of execution." The inclusion of the above costs in the writ of execution or the pendency of the motion to tax on these costs shall not be cause for the clerk of the court to delay issuing the writ of execution or for the levying officer to delay enforcing the writ of execution.

(f) Section 1013, extending the time within which a right may be exercised or an act may be done, applies to this section.

CACP 685.080.

(a) The judgment creditor may claim costs authorized by Section 685.040 by noticed motion. The motion shall be made before the judgment is satisfied in full, but not later than two years after the costs have been incurred. The costs claimed under this section may include, but are not limited to, costs that may be claimed under Section 685.070 and costs incurred but not approved by the court or referee in a proceeding under Chapter 6 (commencing with Section 708.010) of Division 2.

(b) The notice of motion shall describe the costs claimed, shall state their amount, and shall be supported by an affidavit of a person who has knowledge of the facts stating that to the person's best knowledge and belief the costs are correct, are reasonable and necessary, and have not been satisfied. The notice of motion shall be served on the judgment debtor. Service shall be made personally or by mail.

(c) The court shall make an order allowing or disallowing the costs to the extent justified under the circumstances of the case.

CACP 685.090.

(a) Costs are added to and become a part of the judgment:

(1) Upon the filing of an order allowing the costs pursuant to this chapter.

(2) If a memorandum of costs is filed pursuant to Section 685.070 and no motion to tax is made, upon the expiration of the time for making the motion.

(3) As specified in Section 685.095.

(b) The costs added to the judgment pursuant to this section are included in the principal amount of the judgment remaining unsatisfied.

(c) If a writ or earnings withholding order is outstanding at the time the costs are added to the judgment pursuant to this section, the levying officer shall add the amount of those costs to the amount to be collected pursuant to the writ or earnings withholding order if the levying officer receives either of the following before the writ or earnings withholding order is returned:

(1) A certified copy of the court order allowing the costs.

(2) A certificate from the clerk of the court that the costs have been added to the judgment where the costs have been added to the judgment after a memorandum of costs has been filed pursuant to Section 685.070 and no motion to tax has been made within the time allowed for making the motion.

(d) The levying officer shall include the costs described in subdivision (c) in the amount of the sale or collection distributed to the judgment creditor only if the levying officer receives the certified copy of the court order or the clerk's certificate before the distribution is made.

CACP 685.095. When a writ is served by a levying officer or registered process server, the costs for that service, as determined pursuant to Section 1033.5, shall be added to and become part of the judgment.

CACP 685.100.

(a) Except as otherwise provided by law:

(1) As a prerequisite to the performance by the levying officer of a duty under this title, the judgment creditor shall deposit a sum of money with the levying officer sufficient to pay the costs of performing the duty.

(2) As a prerequisite to the taking of property into custody by the levying officer, whether by keeper or otherwise, the judgment creditor shall deposit with the levying officer a sum of money sufficient to pay the costs of taking the property and keeping it safely for a period not to exceed 15 days. If continuation of the custody of the property is required, the levying officer shall, from time to time, demand orally or in writing that the judgment creditor deposit additional amounts to cover estimated costs for periods not to exceed 30 days each. A written demand may be mailed or delivered to the judgment creditor. The judgment creditor has not less than three business days after receipt of the demand within which to comply with the demand. If the amount demanded is not paid within the time specified in the oral or written demand, the levying officer shall release the property.

(b) The levying officer is not liable for failure to take or hold property unless the judgment creditor has complied with the provisions of this section.

CACP 685.110. Nothing in this chapter affects the law relating to prejudgment interest.

CACP 1209.

- (a) The following acts or omissions in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:
1. Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to interrupt the due course of a trial or other judicial proceeding;
 2. A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the due course of a trial or other judicial proceeding;
 3. Misbehavior in office, or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner, or other person, appointed or elected to perform a judicial or ministerial service;
 4. Abuse of the process or proceedings of the court, or falsely pretending to act under authority of an order or process of the court;
 5. Disobedience of any lawful judgment, order, or process of the court;
 6. Rescuing any person or property in the custody of an officer by virtue of an order or process of such court;
 7. Unlawfully detaining a witness, or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial;
 8. Any other unlawful interference with the process or proceedings of a court;
 9. Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness;
 10. When summoned as a juror in a court, neglecting to attend or serve as such, or improperly conversing with a party to an action, to be tried at such court, or with any other person, in relation to the merits of such action, or receiving a communication from a party or other person in respect to it, without immediately disclosing the same to the court;
 11. Disobedience by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of a superior court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate, or officer.
- (b) No speech or publication reflecting upon or concerning any court or any officer thereof shall be treated or punished as a contempt of such court unless made in the immediate presence of such court while in session and in such a manner as to actually interfere with its proceedings.
- (c) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting an attorney, his agent, investigator, or any person acting under the attorney's direction, in the preparation and conduct of any action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt, except for such conduct as may be proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.
- (d) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting a public safety employee acting within the scope of employment for reason of the employee's failure to comply with a duly issued subpoena or subpoena duces tecum, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "public safety employee" includes any peace officer, firefighter, paramedic, or any other employee of a public law enforcement agency whose duty is either to maintain official records or to analyze or present evidence for investigative or prosecutorial purposes.

CACP 1209.5. When a court of competent jurisdiction makes an order compelling a parent to furnish support or necessary food, clothing, shelter, medical attendance, or other remedial care for his or her child, proof that the order was made, filed and served on the parent or proof that the parent was present in court at the time the order was pronounced and proof that the parent did not comply with the order is prima facie evidence of a contempt of court.

CACP 1218.

- (a) Upon the answer and evidence taken, the court or judge shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he or she is guilty of the contempt, a fine may be imposed on him or her not exceeding one thousand dollars (\$1,000), or he or she may be imprisoned not exceeding five days, or both. In addition, a person who is subject to a court order as a party to the action, or any agent of this person, who is adjudged guilty of contempt for violating that court order may be ordered to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs incurred by this party in connection with the contempt proceeding.
- (b) No party, who is in contempt of a court order or judgment in a dissolution of marriage or legal separation action, shall be permitted to enforce such an order or judgment, by way of execution or otherwise, either in the same action or by way of a separate action, against the other party. This restriction shall not affect nor apply to the enforcement of child or spousal support orders.
- (c) In any court action in which a party is found in contempt of court for failure to comply with a court order pursuant to the Family Code, the court shall order the following:
- (1) Upon a first finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, or to be imprisoned up to 120 hours, for each count of contempt.
 - (2) Upon the second finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, in addition to ordering imprisonment of the contemner up to 120 hours, for each count of contempt.
 - (3) Upon the third or any subsequent finding of contempt, the court shall order both of the following:
 - (A) The court shall order the contemner to serve a term of imprisonment of up to 240 hours, and to perform community service of up to 240 hours, for each count of contempt.
 - (B) The court shall order the contemner to pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to a community service program pursuant to this paragraph.
 - (4) The court shall take parties' employment schedules into consideration when ordering either community service or imprisonment, or both.

CACP 1218.5.

- (a) If the contempt alleged is for failure to pay child, family, or spousal support, each month for which payment has not been made in full may be alleged as a separate count of contempt and punishment imposed for each count proven.
- (b) If the contempt alleged is the failure to pay child, family, or spousal support, the period of limitations for commencing a contempt action is three years from the date that the payment was due. If the action before the court is enforcement of another order under the Family Code, the period of limitations for commencing a contempt action is two years from the time that the alleged contempt occurred.

CACP 1219.

- (a) Except as provided in subdivisions (b) and (c), when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.
- (b) Notwithstanding any other law, no court may imprison or otherwise confine or place in custody the victim of a sexual assault for contempt when the contempt consists of refusing to testify concerning that sexual assault.
- (c) In a finding of contempt for a victim of domestic violence who refuses to testify, the court shall not incarcerate the victim, but may require the victim to attend up to 72 hours of a domestic violence program for victims or require the victim to perform up to 72 hours of appropriate community service, provided that in a subsequent finding of contempt for refusing to testify arising out of the same case, the court shall have the option of incarceration pursuant to subdivision (a).
- (d) As used in this section:
 - (1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285 286, 288, 288a, or 289 of the Penal Code.
 - (2) "Domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code.

CAFC 4050. In adopting the statewide uniform guideline provided in this article, it is the intention of the Legislature to ensure that this state remains in compliance with federal regulations for child support guidelines.

CAFC 4053. In implementing the statewide uniform guideline, the courts shall adhere to the following principles:

- (a) A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.
- (b) Both parents are mutually responsible for the support of their children.
- (c) The guideline takes into account each parent's actual income and level of responsibility for the children.
- (d) Each parent should pay for the support of the children according to his or her ability.
- (e) The guideline seeks to place the interests of children as the state's top priority.
- (f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.
- (g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.
- (h) The financial needs of the children should be met through private financial resources as much as possible.
- (i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.
- (j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.
- (k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.
- (l) Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.

CAFC 4054.

- (a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.
- (b) The review shall include economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date. The review shall also include analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council.
- (c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.
- (d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:
 - (1) The treatment of the income of a subsequent spouse or nonmarital partner.
 - (2) The treatment of children from prior or subsequent relationships.
 - (3) The application of the guideline in a case where a payor parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage.
 - (4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline.
 - (5) Whether the use of gross or net income in the guideline is preferable.
 - (6) Whether the guideline affects child custody litigation or the efficiency of the judicial process.
 - (7) Whether the various assumptions used in computer software used by some courts to calculate child support comport with state law and should be made available to parties and counsel.
- (e) The initial review by the Judicial Council shall be submitted to the Legislature and to the State Department of Social Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.
- (f) In developing its recommendations, the Judicial Council shall consult with a broad crosssection of groups involved in child support issues, including, but not limited to, the following:
 - (1) Custodial and noncustodial parents.

- (2) Representatives of established women's rights and fathers' rights groups.
- (3) Representatives of established organizations that advocate for the economic wellbeing of children.
- (4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the State Department of Social Services.
- (5) Certified family law specialists.
- (6) Academicians specializing in family law.
- (7) Persons representing low-income parents.
- (8) Persons representing recipients of assistance under the Aid to Families with Dependent Children (AFDC) program seeking child support services.
- (g) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

CAFC 4055.

- (a) The statewide uniform guideline for determining child support orders is as follows:

$$CS = K (HN - (H\%) (TN)).$$

- (b)

- (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the highearer has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different timesharing arrangements for different children, H% equals the average of the approximate percentages of timethe high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

- (2) To compute net disposable income, see Section 4059.

- (3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month K

\$0-800 $0.20 + TN/16,000$

\$801-6,666 0.25

\$6,667-10,000 $0.10 + 1,000/TN$

Over \$10,000 $0.12 + 800/TN$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000, $K = (1 + 0.20) \times 0.25$, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000, $K = (2 - 0.80) \times 0.25$, or 0.30.

- (4) For more than one child, multiply CS by:

2 children 1.6

3 children 2

4 children 2.3

5 children 2.5

6 children 2.625

7 children 2.75

8 children 2.813

9 children 2.844

10 children 2.86

- (5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.
- (6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described above if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.
- (7) In all cases in which the net disposable income per month of the obligor is less than one thousand dollars (\$1,000), the court shall rule on whether a low-income adjustment shall be made. The ruling shall be based on the facts presented to the court, the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. Where the court has ruled that a low-income adjustment shall be made, the child support amount otherwise determined under this section shall be reduced by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000. If a lowincome adjustment is allowed, the court shall state the reasons supporting the adjustment in writing or on the record and shall document the amount of the adjustment and the underlying facts and circumstances.
- (8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between

that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different timesharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

- (c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

CAFC 4056.

- (a) To comply with federal law, the court shall state, in writing or on the record, the following information whenever the court is ordering an amount for support that differs from the statewide uniform guideline formula amount under this article:
- (1) The amount of support that would have been ordered under the guideline formula.
 - (2) The reasons the amount of support ordered differs from the guideline formula amount.
 - (3) The reasons the amount of support ordered is consistent with the best interests of the children.
- (b) At the request of any party, the court shall state in writing or on the record the following information used in determining the guideline amount under this article:
- (1) The net monthly disposable income of each parent.
 - (2) The actual federal income tax filing status of each parent (for example, single, married, married filing separately, or head of household and number of exemptions).
 - (3) Deductions from gross income for each parent.
 - (4) The approximate percentage of time pursuant to paragraph (1) of subdivision (b) of Section 4055 that each parent has primary physical responsibility for the children compared to the other parent.

CAFC 4057.

- (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.
- (b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:
- (1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.
 - (2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.
 - (3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.
 - (4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.
 - (5) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:
 - (A) Cases in which the parents have different timesharing arrangements for different children.
 - (B) Cases in which both parents have substantially equal timesharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.
 - (C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

CAFC 4057.5.

- (a)
- (1) The income of the obligor parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligor or by the obligor's subsequent spouse or nonmarital partner.
 - (2) The income of the obligee parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligee or by the obligee's subsequent spouse or nonmarital partner.
- (b) For purposes of this section, an extraordinary case may include a parent who voluntarily or intentionally quits work or reduces income, or who intentionally remains unemployed or underemployed and relies on a subsequent spouse's income.
- (c) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, discovery for the purposes of determining income shall be based on W2 and 1099 income tax forms, except where the court determines that application would be unjust or inappropriate.
- (d) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, the court shall allow a hardship deduction based on the minimum living expenses for one or more stepchildren of the party subject to the order.
- (e) The enactment of this section constitutes cause to bring an action for modification of a child support order entered prior to the operative date of this section.

CAFC 4058.

- (a) The annual gross income of each parent means income from whatever source derived, except as specified in subdivision (c) and includes, but is not limited to, the following:
- (1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the proceeding to establish a child support order under this article.
 - (2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.
 - (3) In the discretion of the court, employee benefits or selfemployment benefits, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.
- (b) The court may, in its discretion, consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interests of the children.
- (c) Annual gross income does not include any income derived from child support payments actually received, and income derived from any public assistance program, eligibility for which is based on a determination of need. Child support received by a party for children from another relationship shall not be included as part of that party's gross or net income.

CAFC 4059. The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable to the following items or other items permitted under this article:

- (a) The state and federal income tax liability resulting from the parties' taxable income. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits. Unless the parties stipulate otherwise, the tax effects of spousal support shall not be considered in determining the net disposable income of the parties for determining child support, but shall be considered in determining spousal support consistent with Chapter 3 (commencing with Section 4330) of Part 3.
- (b) Deductions attributed to the employee's contribution or the selfemployed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.
- (c) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.
- (d) Deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.
- (e) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the order to be established by the court. In the absence of a court order, any child support actually being paid, not to exceed the amount established by the guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. Unless the parent proves payment of the support, no deduction shall be allowed under this subdivision.
- (f) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.
- (g) A deduction for hardship, as defined by Sections 4070 to 4073, inclusive, and applicable published appellate court decisions. The amount of the hardship shall not be deducted from the amount of child support, but shall be deducted from the income of the party to whom it applies. In applying any hardship under paragraph (2) of subdivision (a) of Section 4071, the court shall seek to provide equity between competing child support orders. The Judicial Council shall develop a formula for calculating the maximum hardship deduction and shall submit it to the Legislature for its consideration on or before July 1, 1995.

CAFC 4060. The monthly net disposable income shall be computed by dividing the annual net disposable income by 12. If the monthly net disposable income figure does not accurately reflect the actual or prospective earnings of the parties at the time the determination of support is made, the court may adjust the amount appropriately.

CAFC 4061. The amounts in Section 4062, if ordered to be paid, shall be considered additional support for the children and shall be computed in accordance with the following:

- (a) If there needs to be an apportionment of expenses pursuant to Section 4062, the expenses shall be divided one-half to each parent, unless either parent requests a different apportionment pursuant to subdivision (b) and presents documentation which demonstrates that a different apportionment would be more appropriate.
- (b) If requested by either parent, and the court determines it is appropriate to apportion expenses under Section 4062 other than one half to each parent, the apportionment shall be as follows:
- (1) The basic child support obligation shall first be computed using the formula set forth in subdivision (a) of Section 4055, as adjusted for any appropriate rebuttal factors in subdivision (b) of Section 4057.
 - (2) Any additional child support required for expenses pursuant to Section 4062 shall thereafter be ordered to be paid by the parents in proportion to their net disposable incomes as adjusted pursuant to subdivisions (c) and (d).
- (c) In cases where spousal support is or has been ordered to be paid by one parent to the other, for purposes of allocating additional expenses pursuant to Section 4062, the gross income of the parent paying spousal support shall be decreased by the amount of the spousal support paid and the gross income of the parent receiving the spousal support shall be increased by the amount of the spousal support received for as long as the spousal support order is in effect and is paid.
- (d) For purposes of computing the adjusted net disposable income of the parent paying child support for allocating any additional expenses pursuant to Section 4062, the net disposable income of the parent paying child support shall be reduced by the amount of any basic child support ordered to be paid under subdivision (a) of Section 4055. However, the net disposable income of the parent receiving child support shall not be increased by any amount of child support received.

CAFC 4062.

- (a) The court shall order the following as additional child support:
 - (1) Child care costs related to employment or to reasonably necessary education or training for employment skills.
 - (2) The reasonable uninsured health care costs for the children as provided in Section 4063.
- (b) The court may order the following as additional child support:
 - (1) Costs related to the educational or other special needs of the children.
 - (2) Travel expenses for visitation.

CAFC 4063.

- (a) When making an order pursuant to paragraph (2) of subdivision (a) of Section 4062, the court shall:
 - (1) Advise each parent, in writing or on the record, of his or her rights and liabilities, including financial responsibilities.
 - (2) Include in its order the time period for a parent to reimburse the other parent for the reimbursing parent's share of the reasonable additional child support costs subject to the requirements of this section.
- (b) Unless there has been an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, when either parent accrues or pays costs pursuant to an order under this section, that parent shall provide the other parent with an itemized statement of the costs within a reasonable time, but not more than 30 days after accruing the costs. These costs shall then be paid as follows:
 - (1) If a parent has already paid all of these costs, that parent shall provide proof of payment and a request for reimbursement of his or her court-ordered share to the other parent.
 - (2) If a parent has paid his or her court-ordered share of the costs only, that parent shall provide proof of payment to the other parent, request the other parent to pay the remainder of the costs directly to the provider, and provide the reimbursing parent with any necessary information about how to make the payment to the provider.
 - (3) The other parent shall make the reimbursement or pay the remaining costs within the time period specified by the court, or, if no period is specified, within a reasonable time not to exceed 30 days from notification of the amount due, or according to any payment schedule set by the health care provider for either parent unless the parties agree in writing to another payment schedule or the court finds good cause for setting another payment schedule.
 - (4) If the reimbursing parent disputes a request for payment, that parent shall pay the requested amount and thereafter may seek judicial relief under this section and Section 290. If the reimbursing parent fails to pay the other parent as required by this subdivision, the other parent may seek judicial relief under this section and Section 290.
- (c) Either parent may file a noticed motion to enforce an order issued pursuant to this section. In addition to the court's powers under Section 290, the court may award filing costs and reasonable attorney's fees if it finds that either party acted without reasonable cause regarding his or her obligations pursuant to this section.
- (d) There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable, except as provided in subdivision (e).
- (e) Except as provided in subdivision (g):
 - (1) The health care insurance coverage, including, but not limited to, coverage for emergency treatment, provided by a parent pursuant to a court order, shall be the coverage to be utilized at all times, consistent with the requirements of that coverage, unless the other parent can show that the health care insurance coverage is inadequate to meet the child's needs.
 - (2) If either parent obtains health care insurance coverage in addition to that provided pursuant to the court order, that parent shall bear sole financial responsibility for the costs of that additional coverage and the costs of any care or treatment obtained pursuant thereto in excess of the costs that would have been incurred under the health care insurance coverage provided for in the court order.
- (f) Except as provided in subdivision (g):
 - (1) If the health care insurance coverage provided by a parent pursuant to a court order designates a preferred health care provider, that preferred provider shall be used at all times, consistent with the terms and requirements of that coverage.
 - (2) If either parent uses a health care provider other than the preferred provider inconsistent with the terms and requirements of the court-ordered health care insurance coverage, the parent obtaining that care shall bear the sole responsibility for any nonreimbursable health care costs in excess of the costs that would have been incurred under the court-ordered health care insurance coverage had the preferred provider been used.
- (g) When ruling on a motion made pursuant to this section, in order to ensure that the health care needs of the child under this section are met, the court shall consider all relevant facts, including, but not limited to, the following:
 - (1) The geographic access and reasonable availability of necessary health care for the child which complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order.
 - (2) The necessity of emergency medical treatment that may have precluded the use of the health care insurance, or the preferred health care provider required under the insurance, provided by either parent pursuant to a court order.
 - (3) The special medical needs of the child.
 - (4) The reasonable inability of a parent to pay the full amount of reimbursement within a 30-day period and the resulting necessity for a court-ordered payment schedule.

CAFC 4064. The court may adjust the child support order as appropriate to accommodate seasonal or fluctuating income of either parent.

CAFC 4065.

- (a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:
 - (1) They are fully informed of their rights concerning child support.
 - (2) The order is being agreed to without coercion or duress.
 - (3) The agreement is in the best interests of the children involved.
 - (4) The needs of the children will be adequately met by the stipulated amount.

- (5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.
- (b) The parties may, by stipulation, require the child support obligor to designate an account for the purpose of paying the child support obligation by electronic funds transfer pursuant to Section 4508.
- (c) A stipulated agreement of child support is not valid unless the local child support agency has joined in the stipulation by signing it in any case in which the local child support agency is providing services pursuant to Section 17400. The local child support agency shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the CalWORKs program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.
- (d) If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

CAFC 4066. Orders and stipulations otherwise in compliance with the statewide uniform guideline may designate as "family support" an unallocated total sum for support of the spouse and any children without specifically labeling all or any portion as "child support" as long as the amount is adjusted to reflect the effect of additional deductibility. The amount of the order shall be adjusted to maximize the tax benefits for both parents.

CAFC 4067. It is the intent of the Legislature that the statewide uniform guideline shall be reviewed by the Legislature at least every four years and shall be revised by the Legislature as appropriate to ensure that its application results in the determination of appropriate child support amounts. The review shall include consideration of changes required by applicable federal laws and regulations or recommended from time to time by the Judicial Council pursuant to Section 4054.

CAFC 4068.

- (a) The Judicial Council may develop the following:
 - (1) Model worksheets to assist parties in determining the approximate amount of child support due under the formula provided in subdivision (a) of Section 4055 and the approximate percentage of time each parent has primary physical responsibility for the children.
 - (2) A form to assist the courts in making the findings and orders required by this article.
- (b) The Judicial Council, in consultation with representatives of the State Department of Social Services, the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, the Family Law Section of the State Bar of California, a legal services organization providing representation on child support matters, a custodial parent group, and a noncustodial parent group, shall develop a simplified income and expense form for determining child support under the formula provided in subdivision (a) of Section 4055, by June 1, 1995. The Judicial Council, also in consultation with these groups, shall develop factors to use to determine when the simplified income and expense form may be used and when the standard income and expense form must be used.

CAFC 4069. The establishment of the statewide uniform guideline constitutes a change of circumstances.

CAFC 4070. If a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in Section 4071, on the request of a party, the court may allow the income deductions under Section 4059 that may be necessary to accommodate those circumstances.

CAFC 4071.

- (a) Circumstances evidencing hardship include the following:
 - (1) Extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.
 - (2) The minimum basic living expenses of either parent's natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who residewith the parent. The court, on its own motion or on the request of a party, may allow these income deductions as necessary to accommodate these expenses after making the deductions allowable under paragraph (1).
- (b) The maximum hardship deduction under paragraph (2) of subdivision (a) for each child who resides with the parent may be equal to, but shall not exceed, the support allocated each child subject to the order. For purposes of calculating this deduction, the amount of support per child established by the statewide uniform guideline shall be the total amount ordered divided by the number of children and not the amount established under paragraph (8) of subdivision (b) of Section 4055.
- (c) The Judicial Council may develop tables in accordance with this section to reflect the maximum hardship deduction, taking into consideration the parent's net disposable income before the hardship deduction, the number of children for whom the deduction is being given, and the number of children for whom the support award is being made.

CAFC 4072.

- (a) If a deduction for hardship expenses is allowed, the court shall do both of the following:
 - (1) State the reasons supporting the deduction in writing or on the record.
 - (2) Document the amount of the deduction and the underlying facts and circumstances.
- (b) Whenever possible, the court shall specify the duration of the deduction.

CAFC 4073. The court shall be guided by the goals set forth in this article when considering whether or not to allow a financial hardship deduction, and, if allowed, when determining the amount of the deduction.

CAFC 4074. This article applies to an award for the support of children, including those awards designated as "family support," that contain provisions for the support of children as well as for the support of the spouse.

CAFC 4075. This article shall not be construed to affect the treatment of spousal support and separate maintenance payments pursuant to Section 71 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 71).

CAFC 4076.

- (a) Whenever the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section 4055, the court may, in its discretion, order a two-step phasein of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:
- (1) The period of the phasein is carefully limited to the time necessary for the obligor to rearrange his or her financial obligations in order to meet the full formula amount of support.
 - (2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.
 - (3) The obligor has not unreasonably increased his or her financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.
- (b) Whenever the court grants a request for a phasein pursuant to this section, the court shall state the following in writing:
- (1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phasein of the full formula amount of support.
 - (2) The full guideline amount of support, the date and amount of each phasein, and the date that the obligor must commence paying the full formula amount of support, which in no event shall be later than one year after the filing of the motion for modification of support.
- (c) In the event the court orders a phasein pursuant to this section, and the court thereafter determines that the obligor has violated the phasein schedule or has intentionally lowered the income available for the payment of child support during the phasein period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phasein and the amount of support due with the phasein, in addition to any other penalties provided for by law.

CAFC 5230.

- (a) When the court orders a party to pay an amount for support or orders a modification of the amount of support to be paid, the court shall include in its order an earnings assignment order for support that orders the employer of the obligor to pay to the obligee that portion of the obligor's earnings due or to become due in the future as will be sufficient to pay an amount to cover both of the following:
- (1) The amount ordered by the court for support.
 - (2) An amount which shall be ordered by the court to be paid toward the liquidation of any arrearage.
- (b) An earnings assignment order for support shall be issued, and shall be effective and enforceable pursuant to Section 5231, notwithstanding the absence of the name, address, or other identifying information regarding the obligor's employer.

CAFC 5230.1.

- (a) An earnings assignment or income withholding order for support issued by a court or administrative agency of another state is binding upon an employer of the obligor to the same extent as an earnings assignment order made by a court of this state.
- (b) When an employer receives an earnings assignment order or an income withholding order for support from a court or administrative agency in another state, all of the provisions of this chapter shall apply.

CAFC 5230.5. Any obligee alleging arrearages in child support shall specify the amount thereof under penalty of perjury.

CAFC 5231. Unless stayed pursuant to Article 4 (commencing with Section 5260), an assignment order is effective and binding upon any existing or future employer of the obligor upon whom a copy of the order is served in compliance with Sections 5232 and 5233, notwithstanding the absence of the name, address, or other identifying information regarding the obligor's employer, or the inclusion of incorrect information regarding the support obligor's employer.

CAFC 5232. Service on an employer of an assignment order may be made by first-class mail in the manner prescribed in Section 1013 of the Code of Civil Procedure. The obligee shall serve the documents specified in Section 5234.

CAFC 5233. Unless the order states a later date, beginning as soon as possible after service of the order on the employer but not later than 10 days after service of the order on the employer, the employer shall commence withholding pursuant to the assignment order from all earnings payable to the employee.

CAFC 5234. Within 10 days of service of an assignment order or an order/notice to withhold income for child support on an employer, the employer shall deliver both of the following to the obligor:

- (a) A copy of the assignment order or the order/notice to withhold income for child support.
- (b) A written statement of the obligor's rights under the law to seek to quash, modify, or stay service of the earnings assignment order, together with a blank form that the obligor can file with the court to request a hearing to quash, modify, or stay service of the earnings assignment order with instructions on how to file the form and obtain a hearing date.

CAFC 5235.

- (a) The employer shall continue to withhold and forward support as required by the assignment order until served with notice terminating the assignment order. If an employer withholds support as required by the assignment order, the obligor shall not be held in contempt or subject to criminal prosecution for nonpayment of the support that was withheld by the employer but not

received by the obligee. If the employer withheld the support but failed to forward the payments to the obligee, the employer shall be liable for the payments, including interest, as provided in Section 5241.

- (b) Within 10 days of service of a substitution of payee on the employer, the employer shall forward all subsequent support to the governmental entity or other payee that sent the substitution.
- (c) The employer shall send the amounts withheld to the obligee within the timeframe specified in federal law and shall report to the obligee the date on which the amount was withheld from the obligor's wages.
- (d) The employer may deduct from the earnings of the employee the sum of one dollar (\$1) for each payment made pursuant to the order.
- (e) Once the Child Support Centralized Collection and Distribution Unit as required by Section 17309 is operational, the employer shall send all earnings withheld pursuant to this chapter to the Child Support Centralized Collection and Distribution Unit instead of the obligee.

CAFC 5236. The state agency or the local agency, designated to enforce support obligations as required by federal law, shall allow employers to simplify the process of assignment order withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one order in a consolidated check, accompanied by an itemized accounting providing names, social security number or other identifying number, and the amount attributable to each obligor.

CAFC 5237.

- (a) Except as provided in subdivisions (b) and (c), the obligee shall notify the employer of the obligor, by first class mail, postage prepaid, of any change of address within a reasonable period of time after the change.
- (b) Where payments have been ordered to be made to a county officer designated by the court, the obligee who is the parent, guardian, or other person entitled to receive payment through the designated county officer shall notify the designated county officer by first class mail, postage prepaid, of any address change within a reasonable period of time after the change.
- (c) If the obligee is receiving support payments from the Child Support Centralized Collection and Distribution Unit as required by Section 17309, the obligee shall notify the Child Support Centralized Collection and Distribution Unit instead of the employer of the obligor as provided in subdivision (a).
- (d) If the employer, designated county officer, or the Child Support Centralized Collection and Distribution Unit is unable to deliver payments under the assignment order for a period of six months due to the failure of the obligee to notify the employer or designated county officer of a change of address, the employer or designated county officer shall not make any further payments under the assignment order and shall return all undeliverable payments to the obligor.

CAFC 5238.

- (a) Where an assignment order or assignment orders include both current support and payments towards the liquidation of arrearages, priority shall be given first to the current child support obligation, then the current spousal support obligation, and thereafter to the liquidation of child and then spousal support arrearages.
- (b) Where there are multiple assignment orders for the same employee, the employer shall prorate the withheld payments as follows:
 - (1) If the obligor has more than one assignment for support, the employer shall add together the amount of support due for each assignment.
 - (2) If 50 percent of the obligor's net disposable earnings will not pay in full all of the assignments for support, the employer shall prorate it first among all of the current support assignments in the same proportion that each assignment bears to the total current support owed.
 - (3) The employer shall apply any remainder to the assignments for arrearage support in the same proportion that each assignment bears to the total arrearage owed.

CAFC 5239. Arrearages of support payments shall be computed on the basis of the payments owed and unpaid on the date that the obligor has been given notice of the assignment order as required by Section 5234.

CAFC 5240. Upon the filing and service of a motion and a notice of motion by the obligor, the court shall terminate the service of an assignment order if past due support has been paid in full, including any interest due, and if any of the following conditions exist:

- (a) With regard to orders for spousal support, the death or remarriage of the spouse to whom support is owed.
- (b) With regard to orders for child support, the death or emancipation of the child for whom support is owed.
- (c) The court determines that there is good cause, as defined in Section 5260, to terminate the assignment order. This subdivision does not apply if there has been more than one application for an assignment order.
- (d) The obligor meets the conditions of an alternative arrangement specified in paragraph (2) of subdivision (b) of Section 5260, and a wage assignment has not been previously terminated and subsequently initiated.
- (e) There is no longer a current order for support.
- (f) The termination of the stay of an assignment order under Section 5261 was improper, but only if that termination was based upon the obligor's failure to make timely support payments as described in subdivision (b) of Section 5261.
- (g) The employer or agency designated to provide services under Title IVD of the Social Security Act or the Child Support Centralized Collection and Distribution Unit is unable to deliver payment for a period of six months due to the failure of the obligee to notify that employer or agency or the Child Support Centralized Collection and Distribution Unit of a change in the obligee's address.

CAFC 5241.

- (a) An employer who willfully fails to withhold and forward support pursuant to a currently valid assignment order entered and served upon the employer pursuant to this chapter is liable to the obligee for the amount of support not withheld, forwarded, or otherwise paid to the obligee, including any interest thereon.
- (b) If an employer withholds support as required by the assignment order, the obligor shall not be held in contempt or subject to criminal prosecution for nonpayment of the support that was withheld by the employer but not received by the obligee. In addition, the

employer is liable to the obligee for any interest incurred as a result of the employer's failure to timely forward the withheld support pursuant to an assignment earnings order.

- (c) In addition to any other penalty or liability provided by law, willful failure by an employer to comply with an assignment order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.
- (d) If an employer withholds support, as required by the assignment order, but fails to forward the support to the obligee, the local child support agency shall take appropriate action to collect the withheld sums from the employer. The child support obligee or the local child support agency upon application may obtain an order requiring payment of support by electronic transfer from the employer's bank account if the employer has willfully failed to comply with the assignment order or if the employer has failed to comply with the assignment order on three separate occasions within a 12-month period. Where a court finds that an employer has willfully failed to comply with the assignment order or has otherwise failed to comply with the assignment order on three separate occasions within a 12-month period, the court may impose a civil penalty, in addition to any other penalty required by law, of up to 50 percent of the support amount that has not been received by the obligee.
- (e) To facilitate employer awareness, the local support agency shall make reasonable efforts to notify any employer subject to an assignment order pursuant to this chapter of the electronic fund transfer provision and enhanced penalties provided by this act.
- (f) Notwithstanding any other provision of law, any penalty payable pursuant to this subdivision shall be payable directly to the obligee. The local child support agency shall not be required to establish or collect this penalty on behalf of the obligee. The penalty shall not be included when determining the income of the obligee for the purpose of determining the eligibility of the obligee for benefits payable pursuant to state supplemental income programs. A court may issue the order requiring payment of support by electronic transfer from the employer's bank account and impose the penalty described in this subdivision, after notice and hearing. This provision shall not be construed to expand or limit the duties and obligations of the Labor Commissioner, as set forth in Section 200 and following of the Labor Code.

CAFC 5242. Service of the assignment order creates a lien on the earnings of the employee and the property of the employer to the same extent as the service of an earnings withholding order as provided in Section 706.029 of the Code of Civil Procedure.

CAFC 5243. An assignment order for support has priority as against any attachment, execution, or other assignment as specified in Section 706.031 of the Code of Civil Procedure.

CAFC 5244. A reference to the local child support agency in this chapter applies only when the local child support agency is otherwise ordered or required to act pursuant to law. Nothing in this chapter shall be deemed to mandate additional enforcement or collection duties upon the local child support agency beyond those otherwise imposed by law.

CAFC 5245. Nothing in this chapter limits the authority of the local child support agency to use any other civil and criminal remedies to enforce support obligations, regardless of whether or not the child or the obligee who is the parent, guardian, or other person entitled to receive payment is the recipient of welfare moneys.

CAFC 5246.

- (a) This section applies only to Title IV-D cases where support enforcement services are being provided by the local child support agency pursuant to Section 17400.
- (b) In lieu of an earnings assignment order signed by a judicial officer, the local child support agency may serve on the employer a notice of assignment in the manner specified in Section 5232. An order/notice to withhold income for child support shall have the same force and effect as an earnings assignment order signed by a judicial officer. An order/notice to withhold income for child support, when used under this section, shall be considered a notice and shall not require the signature of a judicial officer.
- (c) Pursuant to Section 666 of Title 42 of the United States Code, the federally mandated order/notice to withhold income for child support shall be used for the purposes described in this section.
- (d)
 - (1) An order/notice to withhold income may not reduce the current amount withheld for court-ordered child support.
 - (2) If the underlying court order for support does not provide for an arrearage payment, or if an additional arrearage accrues after the date of the court order for support, the local child support agency may send an order/notice to withhold income for child support that shall be used for the purposes described in this section directly to the employer which specifies the updated arrearage amount and directs the employer to withhold an additional amount to be applied towards liquidation of the arrearages not to exceed the maximum amount permitted by Section 1673(b) of Title 15 of the United States Code.
 - (3) Notwithstanding paragraph (2), if an obligor is disabled, meets the SSI resource test, and is receiving Supplemental Security Income/State Supplementary Payments (SSI/SSP) or, but for excess income as described in Section 416.1100 et seq. of Part 416 of Title 20 of the Code of Federal Regulations, would be eligible to receive SSI/SSP, pursuant to Section 12200 of the Welfare and Institutions Code, and the obligor has supplied the local child support agency with proof of his or her eligibility for and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the order/notice to withhold income issued by the local child support agency for the liquidation of the arrearage shall not exceed 5 percent of the obligor's total monthly Social Security Disability payments under Title II of the Social Security Act.
- (e) If the obligor requests a hearing, a hearing date shall be scheduled within 20 days of the filing of the request with the court. The clerk of the court shall provide notice of the hearing to the local child support agency and the obligor no later than 10 days prior to the hearing.
 - (1) If at the hearing the obligor establishes that he or she is not the obligor or good cause or an alternative arrangement as provided in Section 5260, the court may order that service of the order/notice to withhold income for child support be quashed. If the court quashes service of the order/notice to withhold income for child support, the local child support agency shall notify the employer within 10 days.
 - (2) If the obligor contends at the hearing that the payment of arrearages at the rate specified in the order/notice to withhold income for child support is excessive or that the total arrearages owing is incorrect, and if it is determined that payment of the arrearages at the rate specified in this section creates an undue hardship upon the obligor or that the withholding would exceed the maximum

amount permitted by Section 1673(b) of Title 15 of the United States Code Annotated, the rate at which the arrearages must be paid shall be reduced to a rate that is fair and reasonable considering the circumstances of the parties and the best interest of the child. If it is determined at a hearing that the total amount of arrearages calculated is erroneous, the court shall modify the amount calculated to the correct amount. If the court modifies the total amount of arrearages owed or reduces the monthly payment due on the arrearages, the local child support agency shall serve the employer with an amended order/notice to withhold income for child support within 10 days.

- (f) If an obligor's current support obligation has terminated by operation of law, the local child support agency may serve an order/notice to withhold income for child support on the employer which directs the employer to continue withholding from the obligor's earnings an amount to be applied towards liquidation of the arrearages, not to exceed the maximum amount permitted by Section 1673(b) of Title 15 of the United States Code, until such time that the employer is notified by the local child support agency that the arrearages have been paid in full. The employer shall provide the obligor with a copy of the order/notice to withhold income for child support and a blank form that the obligor may file with the court to request a hearing to modify or quash the assignment with instructions on how to file the form and obtain a hearing date. The obligor shall be entitled to the same rights to a hearing as specified in subdivision (e).
- (g) The local child support agency shall retain a copy of the order/notice to withhold income for child support and shall file a copy with the court whenever a hearing concerning the order/notice to withhold income for child support is requested.
- (h) The local child support agency may transmit an order/notice to withhold income for child support and the forms required by this section to the employer through electronic means.

CAFC 5247. Neither the local child support agency nor an employer shall be subject to any civil liability for any amount withheld and paid to the obligee, the local child support agency, or the Child Support Centralized Collection and Distribution Unit pursuant to an earnings assignment order or notice of assignment.

CAFC 5290. No employer shall use an assignment order authorized by this chapter as grounds for refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this section may be assessed a civil penalty of a maximum of five hundred dollars (\$500).

CAFC 17400 a Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and, when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

CAFC 17500 c Except as provided in paragraph (3) of subdivision (e) of Section 19271 of the Revenue and Taxation Code, the local child support agency shall transfer child support delinquencies to the Franchise Tax Board for collection purposes in the form and manner and at the time prescribed by the Franchise Tax Board. Collection shall be made by the Franchise Tax Board in accordance with Section 19271 of the Revenue and Taxation Code.

CAFC 17505.

- (a) All state, county, and local agencies shall cooperate with the local child support agency
 - (1) in the enforcement of any child support obligation or to the extent required under the state plan under Chapter 6 (commencing with Section 4900) of Part 5 of Division 9, Section 270 of the Penal Code, and Section 17604, and
 - (2) the enforcement of spousal support orders and in the location of parents or putative parents. The local child support agency may enter into an agreement with and shall secure from a municipal, county, or state law enforcement agency, pursuant to that agreement, state summary criminal record information through the California Law Enforcement Telecommunications System. This subdivision applies irrespective of whether the children are or are not receiving aid to families with dependent children. All state, county, and local agencies shall cooperate with the district attorney in implementing Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 concerning the location, seizure, and recovery of abducted, concealed, or detained minor children.
- (b) On request, all state, county, and local agencies shall supply the local child support agency of any county in this state or the California Parent Locator Service with all information on hand relative to the location, income, or property of any parents, putative parents, spouses, or former spouses, notwithstanding any other provision of law making the information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child under this chapter.
- (c) The California Child Support Automation System, or its replacement, shall be entitled to the same cooperation and information provided to the California Parent Locator Service, to the extent allowed by law. The California Child Support Automation System, or its replacement, shall be allowed access to criminal offender record information only to the extent that access is allowed by law.
- (d) Information exchanged between the California Parent Locator Service or the California Child Support Automation System, or its replacement, and state, county, or local agencies as specified in Section 666(c)(1)(D) of title 42 of the United States Code shall be through automated processes to the maximum extent feasible.

CAFC 17520 e3A The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

CAFC 17522 a Notwithstanding any other law, if any support obligor is delinquent in the payment of support for at least 30 days and the local child support agency is enforcing the support obligation pursuant to Section 17400, the local child support agency may collect the delinquency or enforce any lien by levy served on all persons having in their possession, or who will have in their possession or under their control, any credits or personal property belonging to the delinquent support obligor, or who owe any debt to the obligor at the time they receive the notice of levy.

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INTRODUCED BY Assembly Member Aroner

FEBRUARY 18, 1999

An act to add Section 17401 to, and to add Chapter 5 (commencing with Section 17800) to Division 17 of, the Family Code and to amend Sections 10950, 10951, 10963, 18242, 18243, and 14247 of, to add Section 11475.6 to, and to repeal Section 18246 of, the Welfare and Institutions Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 472, Aroner. Public assistance: child support services.

- (1) Existing law sets forth conditions under which any dissatisfied applicant for or recipient of public social services is accorded an opportunity for a state hearing.
This bill would require a custodial or noncustodial parent to be accorded an opportunity for a state hearing when any one or more of certain actions or failures to take action by the department or a state or county agency related to child support is claimed by the parent, and would require a district attorney to institute a dispute resolution process for these cases. These provisions would only be implemented to the extent that there is federal financial participation available.
The bill would require state and county agencies to comply with these hearing decisions.
Since the bill requires each county to participate in these fair hearings, the bill would constitute a state-mandated local program.
- (2) Existing law requires the department to publish a booklet describing the proper procedures and processes for the collection and payment of child and spousal support. Existing law requires the district attorney to provide certain notice to recipients of child and spousal support services.
This bill would require that notice of, and information about, the child support services hearings available under the bill be provided by the district attorney in a manner specified by the bill, included in the booklet published by the department, and included in or with various forms used in actions to enforce child and spousal support obligations, to the extent federal financial participation is available.
- (3) Under existing law, it is a crime for a parent of a minor child to willfully omit, without lawful excuse, to furnish necessary clothing, food, shelter, or medical attendance, or other remedial care for his or her child.
This bill would provide that the decision of a district attorney to proceed or decline to proceed against a parent under this provision shall not be subject to review in any state hearing, as described in the bill.
- (4) Existing law authorizes the State Department of Social Services to approve demonstration projects in up to 3 counties to test models of child support assurance, and specifies that one of the projects shall conform to a specified design, and provides for the funding of the projects from funds continuously appropriated for the CalWORKs program.
This bill would recast that provision to authorize the approval of up to 3 child support assurance demonstration projects, and would eliminate the requirement that one of the projects conform to a specified design.
- (5) Existing law requires the State Department of Social Services to develop research designs to ensure thorough evaluation of the child support assurance demonstration projects that include various factors, including the impact of welfare-to-work participation rates of custodial parents, CalWORKs participation rates and costs, paternity and child support order establishment, and other relevant information.
This bill would recast that requirement and increase the scope of factors that must be included in the research designs.
- (6) Existing law provides that the state share of child support assurance payments under the child support assurance demonstration project shall be paid in accordance with the continuously appropriated funding of the CalWORKs program.
This bill would specify that the State Department of Social Services, to the extent possible, shall ensure that no funding streams will be utilized to pay for child support assurance payments if use of the funding streams would cause participants to be subject to the limitations imposed on the CalWORKs program that a parent or caretaker relative shall not be eligible to receive aid for a cumulative

period of more than 18 months after the individual signs, or refuses, without good cause, to sign a welfare-to-work plan, unless it is certified by the county that there is no job currently available for the recipient and the recipient participates in community service activities.

- (7) This bill would also enact similar alternative provisions to those described in paragraphs (1) to (3), above, which would become operative only if either AB 196 or SB 542, or both, are enacted, and other specified conditions occur, in which case the other provisions of the bill would not become operative.
- (8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.
- This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17401 is added to the Family Code, to read:

CAFC 17401.

- (a) All of the following shall include notice of, and information about, the child support service hearings available pursuant to Section 10950, provided that there is federal financial participation available as set forth in subdivision (e) of Section 10950:
- (1) The informational materials included with the summons and complaint pursuant to subdivision (d) of Section 17400.
 - (2) The booklet required by subdivision (a) of Section 17434.
 - (3) Any notice required by subdivision (c) or (h) of Section 17406.
- (b) To the extent not otherwise required by law, the local child support agency shall provide notice of, and information about, the child support services hearings available pursuant to Section 10950 in any regularly issued notices to custodial and noncustodial parents subject to Section 17400, provided that there is federal financial participation available as set forth in subdivision (e) of Section 17801.

SEC. 2. Chapter 5 (commencing with Section 17800) is added to Division 17 of the Family Code, to read:

CHAPTER 5. COMPLAINT RESOLUTION

CAFC 17800. Each local child support agency shall maintain a complaint resolution process. The department shall specify by regulation, no later than July 1, 2001, uniform forms and procedures that each local child support agency shall use in resolving all complaints received from custodial and noncustodial parents. A complaint shall be made within 90 days after the custodial or noncustodial parent affected knew or should have known of the child support action complained of.

The local child support agency shall provide a written resolution of the complaint within 30 days of the receipt of the complaint.

CAFC 17801.

- (a) A custodial or noncustodial parent who is dissatisfied with the local child support agency's resolution of a complaint shall be accorded an opportunity for a state hearing when any one or more of the following actions or failures to take action by the department or the local child support agency is claimed by the parent:
- (1) An application for child support services has been denied or has not been acted upon within the required timeframe.
 - (2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.
 - (3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or the local child support agency is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.
 - (4) The child support agency's decision to close a child support case.
- (b) Prior to requesting a hearing pursuant to subdivision (a), the custodial or noncustodial parent shall exhaust the complaint resolution process required in Section 17800, unless the local child support agency has not, within the 30-day period required by that section, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution, he or she may request a hearing pursuant to subdivision (a).
- (c) A hearing shall be provided under subdivision (a) when the request for a hearing is made within 90 days after receiving the written notice of resolution required in Section 17800 or, if no written notice of resolution is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.
- (d) A hearing under subdivision (a) shall be set to commence within 30 days after the request is filed, and at least 10 days prior to the hearing, all parties shall be given written notice of the time and place of the hearing. A final hearing decision shall be rendered within 20 working days of the date of the hearing.
- (e) To the extent not inconsistent with this section, hearings under subdivision (a) shall be provided in the same manner in which hearings are provided in Sections 10950 to 10967 of the Welfare and Institutions Code and the State Department of Social Services' regulations implementing and interpreting those sections.
- (f) Pendency of a state hearing shall not affect the obligation to comply with an existing child support order.
- (g) Any child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (a), grievances arising from a child support case in the superior court which must, by law, be addressed by motion, order to show cause, or appeal under this code.

- (h) The local child support agency and the Franchise Tax Board shall comply with, and execute, every decision of the director rendered pursuant to this section.
- (i) The director shall contract with the State Department of Social Services or the Office of Administrative Hearings for the provision of state hearings in accordance with this section.
- (j) This section shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in Section 655(a)(2) of Title 42 of the United States Code.

CAFC 17802. To the extent that a custodial or noncustodial parent has a complaint concerning the action or inaction of the Franchise Tax Board in any child support case referred to the Franchise Tax Board pursuant to Section 17400, that complaint shall be resolved pursuant to Section 17800 by the local child support agency that is responsible for the case. The Franchise Tax Board shall cooperate with the local child support agency in resolving the complaint within the timeframes required by Section 17800. If the custodial or noncustodial parent requests a hearing pursuant to Section 17801, the Franchise Tax Board shall ensure that a representative attends the hearing if deemed necessary by the local child support agency.

CAFC 17803. The custodial or noncustodial parent, within one year after receiving notice of the director's final decision, may file a petition with the superior court, under Section 1094.5 of the Code of Civil Procedure, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case. The review, if granted, shall be the exclusive remedy available to the custodial or noncustodial parent for review of the director's decision. The director shall be the sole respondent in the proceedings. No filing fee shall be required for the filing of a petition pursuant to this section. Any such petition to the superior court shall be entitled to a preference in setting a date for hearing on the petition. No bond shall be required in the case of any petition for review, nor in any appeal therefrom. The custodial or noncustodial parent shall be entitled to reasonable attorney's fees and costs, if he or she obtains a decision in his or her favor.

CAFC 17804. Each local child support agency shall establish the complaint resolution process specified in Section 17800 as of the date it transitions from the office of the district attorney to the county agency as provided in Sections 17304 and 17305, but no earlier than July 1, 2001. The department shall implement the state hearing requirements specified in Section 17801 no later than July 1, 2001.

SEC. 3. Section 10950 of the Welfare and Institutions Code is amended to read:

CAFC 10950.

- (a) If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his or her application for or receipt of public social services, if his or her application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with that refusal, he or she shall be accorded an opportunity for a state hearing.
- (b) A custodial or noncustodial parent shall be accorded an opportunity for a state hearing when any one or more of the following actions or failures to take action by the department or a state or county agency operating pursuant to Section 11350.1 or 11475.1 is claimed by the parent:
 - (1) An application for child support services has been denied or has not been acted upon within the required timeframe.
 - (2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.
 - (3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or a state or county agency operating pursuant to Section 11350.1 or 11475.1, is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.
 - (4) The child support agency's decision to close a child support case.
- (c) Hearings under subdivision (b) shall be provided in the same manner in which hearings are provided with respect to an application for, or receipt of, other public social services under this section. Pendency of a state hearing shall not affect the obligation to comply with an existing support order.
- (d) Each district attorney shall establish a complaint resolution process. The department shall specify, by regulation, uniform forms and procedures that each district attorney shall use in resolving complaints received from custodial and noncustodial parents. A complaint shall be made within 90 days after the custodial or noncustodial parent affected knew or should have known of the child support case action complained of. The district attorney shall provide a written resolution of the complaint within 30 days of the receipt of the complaint. Prior to requesting a hearing pursuant to subdivision (b), the custodial or noncustodial parent shall exhaust the complaint resolution process, unless the district attorney has not, within the 30-day period required by this subdivision, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution or is dissatisfied with the resolution of the complaint, he or she may request a hearing pursuant to subdivision (b).
- (e) Subdivisions (b), (c), and (d) shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in paragraph (2) of subsection (a) of Section 655 of Title 42 of the United States Code.
- (f) A request for a state hearing may be made in person or through an authorized representative without the necessity of filing a claim with the board of supervisors, by filing a request with the department or the State Department of Health Services, whichever department administers the public social service.
- (g) Priority in setting and deciding cases shall be given in those cases in which aid or services are not being provided pending the outcome of the hearing. This priority shall not be construed to permit or excuse the failure to render decisions within the time allowed under federal and state law.
- (h) Notwithstanding any other provision of this code, there is no right to a state hearing when either of the following circumstances exists:

- (1) State or federal law requires automatic grant adjustments for classes of recipients unless the reason for a individual request is incorrect grant computation.
 - (2) The sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients.
- (i)
- (1) For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties conferred on the Director of Social Services by this chapter to conduct state hearings in order to secure approval of a state plan under applicable federal law.
 - (2) The State Director of Health Services may contract with the State Department of Social Services for the provision of state hearings in accordance with this chapter.
- (j) Any child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under the Family Code or this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (b), grievances arising from a child support case in the superior court which must, by law, be addressed by motion, order to show cause, or appeal under the Family Code or this code.
- (k) As used in this chapter, "recipient" means an applicant for or recipient of public social services, including child support services, except aid exclusively financed by county funds or aid under Article 1 (commencing with Section 1200) to Article 6 (commencing with Section 12250), inclusive, of Chapter 3 of Part 3, and under Article 8 (commencing with Section 12350) of Chapter 3 of Part 3, or those activities conducted under Chapter 6 (commencing with Section 18350) of Part 6, and shall include any individual who is an approved adoptive parent, as described in subdivision (c) of Section 8708 of the Family Code, and who alleges that he or she has been denied or has experienced delay in the placement of a child for adoption solely because he or she lives outside the jurisdiction of the department.
- (l) The decision of a district attorney to proceed or to decline to proceed under Section 270 of the Penal Code, or seek or not seek contempt charges, shall not be subject to review in a hearing under this section.
- (m) For the purposes of this section, a superior court is not a state or county agency operating pursuant to Section 11350.1 or 11475.1.

SEC. 4. Section 10951 of the Welfare and Institutions Code is amended to read:

CAFC 10951.

- (a) No person shall be entitled to a hearing pursuant to this chapter unless he or she files his or her request for that hearing within 90 days after the order or action complained of.
- (b) A hearing shall be provided under subdivision (b) of Section 10950 when the request for a hearing is made within 90 days after receiving the written notice of resolution provided in subdivision (d) of Section 10950 or, if no written notice is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.

SEC. 5. Section 10963 of the Welfare and Institutions Code is amended to read:

CAFC 10963. The county director and a state or county agency acting pursuant to Section 11350.1 or 11475.1 shall comply with, and execute, every decision of the director rendered pursuant to this chapter.

SEC. 7. Section 18242 of the Welfare and Institutions Code is amended to read:

CAFC 18242.

- (a) Upon application by a county board of supervisors, the department may approve up to three demonstration projects to test models of child support assurance. The projects shall either test different models of child support assurance or may test the same model if counties in which the same model is tested involve counties with different demographics.
- (b) The department may approve joint projects by two or more counties if both of the following apply:
 - (1) The equity of access to the project and its related services is ensured to all participants.
 - (2) The project includes appropriate operational and fiscal arrangements between the counties submitting the joint project.
- (c) If the department approves a joint project by two or more counties, that joint project shall constitute one of the projects authorized by subdivision (a).
- (d) It is the intent of the Legislature that the purpose of the demonstration projects authorized by this article is to test child support assurance models as alternatives to welfare under which families with earnings and a child support order receive a guaranteed child support payment, in lieu of a grant under the CalWORKs program, from funds continuously appropriated for the CalWORKs program.
- (e) A county may limit the number of families that will be permitted to enroll in its child support assurance demonstration program.

SEC. 8. Section 18243 of the Welfare and Institutions Code is amended to read:

CAFC 18243. The department shall develop research designs to ensure thorough evaluations of the child support assurance demonstration projects that shall include, but not be limited to, the impact of the project on work participation rates of custodial parents, household incomes and family well-being, CalWORKs participation rates and costs, rates of paternity and child support order establishment, and any other relevant information the director may require.

SEC. 9. Section 18246 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 18247 of the Welfare and Institutions Code is amended to read:

CAFC 18247.

- (a) The state share of child support assurance payments under this article shall be paid in accordance with Section 15200.
- (b) The department shall, to the extent possible, ensure that no funding streams will be utilized to pay for child support assurance payments if the use of the funding streams would cause participants to be subject to the limitations of Section 11454 or any similar limitation.
- (c) The county administrative cost for the operation of a child support assurance program shall be paid from the county's allocation provided under Sections 15204.2 and 15204.3.

SEC. 11. Sections 1 and 2 of this bill shall become operative only if either Assembly Bill 196 or Senate Bill 542, or both, are enacted into law during the 1999-2000 Regular Session, and as enacted, either or both bills add Division 17 (commencing with Section 17000) to the Family Code, in which case Sections 3, 4, 5, and 6 of this bill shall not become operative.

SEC. 12. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Title 15 - Commerce and Trade

Chapter 41 - Consumer Credit Protection

Subchapter I - Consumer Credit Cost Disclosure

Part D - Credit Billing

USC 15 1666 - Correction of billing errors

- (a) Written notice by obligor to creditor; time for and contents of notice; procedure upon receipt of notice by creditor

If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 1637(b)(10) of this title a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 1637(a)(7) of this title) from the obligor in which the obligor-

 - (1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,
 - (2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and
 - (3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error, the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct-
 - (A) not later than thirty days after the receipt of the notice, send a written acknowledgment thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and
 - (B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either
 - (i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or
 - (ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination. After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.
- (b) Billing error

For the purpose of this section, a "billing error" consists of any of the following:

 - (1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.
 - (2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.
 - (3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.
 - (4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.
 - (5) A computation error or similar error of an accounting nature of the creditor on a statement.
 - (6) Failure to transmit the statement required under section 1637(b) of this title to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.
 - (7) Any other error described in regulations of the Board.
- (c) Action by creditor to collect amount or any part thereof regarded by obligor to be a billing error

For the purposes of this section, "action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)" does not include the sending of statements of account, which may include finance charges on amounts in dispute, to the obligor following written notice from the obligor as specified under subsection (a) of this section, if

 - (1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a) of this section, and
 - (2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

(d) Restricting or closing by creditor of account regarded by obligor to contain a billing error

Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B)(ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) of this section that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

(e) Effect of noncompliance with requirements by creditor

Any creditor who fails to comply with the requirements of this section or section 1666a of this title forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed \$50.

USC 15 1666a - Regulation of credit reports

(a) Reports by creditor on obligor's failure to pay amount regarded as billing error

After receiving a notice from an obligor as provided in section 1666(a) of this title, a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 1666(a)(2) of this title, and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 1666 of this title and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

(b) Reports by creditor on delinquent amounts in dispute; notification of obligor of parties notified of delinquency

If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the amount of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 1666(a)(2) of this title, unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

(c) Reports by creditor of subsequent resolution of delinquent amounts

A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) of this section to the parties to whom such delinquencies were initially reported.

USC 15 1666b - Length of billing period in credit statement for imposition of finance charge; effect of failure of timely mailing or delivery of statement

(a) Additional finance charge

If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

(b) Excusable cause

Subsection (a) of this section does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

USC 15 1666c - Prompt crediting of payments; imposition of finance charge

Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on an obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

USC 15 1666d - Treatment of credit balances

Whenever a credit balance in excess of \$1 is created in connection with a consumer credit transaction through

- (1) transmittal of funds to a creditor in excess of the total balance due on an account,
- (2) rebates of unearned finance charges or insurance premiums, or
- (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall:
 - (A) credit the amount of the credit balance to the consumer's account;
 - (B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and
 - (C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, except that no further action is required in any case in which the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.

USC 15 1666e - Notification of credit card issuer by seller of return of goods, etc., by obligor; credit for account of obligor

With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer, a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

USC 15 1666f - Inducements to cardholders by sellers of cash discounts for payments by cash, check or similar means; finance charge for sales transactions involving cash discounts

(a) Cash discounts

With respect to credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract, or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

(b) Finance charge

With respect to any sales transaction, any discount from the regular price offered by the seller for the purpose of inducing payment by cash, checks, or other means not involving the use of an open end credit plan or a credit card shall not constitute a finance charge as determined under section 1605 of this title if such discount is offered to all prospective buyers and its availability is disclosed clearly and conspicuously.

USC 15 1666g - Tie-in services prohibited for issuance of credit card

Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

USC 15 1666h - Offset of cardholder's indebtedness by issuer of credit card with funds deposited with issuer by cardholder; remedies of creditors under State law not affected

(a) Offset against consumer's funds

A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless

(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and

(2) such action with respect to any outstanding disputed amount not be taken by the card issuer upon request of the cardholder.

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his credit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

(b) Attachments and levies

This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

USC 15 1666i - Assertion by cardholder against card issuer of claims and defenses arising out of credit card transaction; prerequisites; limitation on amount of claims or defenses

(a) Claims and defenses assertible

Subject to the limitation contained in subsection (b) of this section, a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if

(1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card;

(2) the amount of the initial transaction exceeds \$50; and

(3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card

(A) is the same person as the card issuer,

(B) is controlled by the card issuer,

(C) is under direct or indirect common control with the card issuer,

(D) is a franchised dealer in the card issuer's products or services, or

(E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.

(b) Amount of claims and defenses assertible

The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of:

(1) late charges in the order of their entry to the account;

(2) finance charges in order of their entry to the account; and

(3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

USC 15 1666j - Applicability of State laws

(a) Consistency of provisions

This part does not annul, alter, or affect, or exempt any person subject to the provisions of this part from complying with, the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this part, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board

may not determine that any State law is inconsistent with any provision of this part if the Board determines that such law gives greater protection to the consumer.

(b) Exemptions by Board from credit billing requirements

The Board shall by regulation exempt from the requirements of this part any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this part or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

(c) Finance charge or other charge for credit for sales transactions involving cash discounts

Notwithstanding any other provisions of this subchapter, any discount offered under section 1666f(b) of this title shall not be considered a finance charge or other charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions, or relating to the types, amounts or rates of charges, or to any element or elements of charges permissible under such laws in connection with the extension or use of credit.

Title 15 - Commerce and Trade

Chapter 41 - Consumer Credit Protection

Subchapter II - Restrictions on Garnishment

USC 15 1672. - Definitions

For the purposes of this subchapter:

- (a) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.
- (b) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.
- (c) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt

USC 15 1673 - Restriction on garnishment

(a) Maximum allowable garnishment

Except as provided in subsection (b) of this section and in section 1675 of this title, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

- (1) 25 per centum of his disposable earnings for that week, or
- (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of title 29 in effect at the time the earnings are payable, whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

(b) Exceptions

- (1) The restrictions of subsection (a) of this section do not apply in the case of
 - (A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.
 - (B) any order of any court of the United States having jurisdiction over cases under chapter 13 of title 11.
 - (C) any debt due for any State or Federal tax.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed-

- (A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and
- (B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week; except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

(c) Execution or enforcement of garnishment order or process prohibited

No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

Title 18 - Crimes and Criminal Procedure

Part i - Crimes

Chapter 11a - Child Support

USC 18 228. Failure to pay legal child support obligations

(a) Offense. - Any person who -

- (1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000;
- (2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000; or
- (3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than \$10,000; shall be punished as provided in subsection (c).

(b) Presumption. - The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

(c) Punishment. - The punishment for an offense under this section is-

- (1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and
- (2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

- (d) Mandatory Restitution. - Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.
- (e) Venue. - With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for -
- (1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an "obligor") failed to meet that support obligation;
 - (2) the district in which the obligor resided during a period described in paragraph (1); or
 - (3) any other district with jurisdiction otherwise provided for by law.
- (f) Definitions. - As used in this section -
- (1) the term "Indian tribe" has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);
 - (2) the term "State" includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and
 - (3) the term "support obligation" means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

Title 18 - Crimes and Criminal Procedure

Part I - Crimes

Chapter 13 - Civil Rights

USC 18 242 - Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Title 18 - Crimes and Criminal Procedure

Part I - Crimes

Chapter 50A - Genocide

USC 18 1091. Genocide

(a) Basic Offense. -

Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d) and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such-

- (1) kills members of that group;
- (2) causes serious bodily injury to members of that group;
- (3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;
- (4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;
- (5) imposes measures intended to prevent births within the group; or
- (6) transfers by force children of the group to another group; or attempts to do so, shall be punished as provided in subsection (b).

(b) Punishment for Basic Offense. -

The punishment for an offense under subsection (a) is-

- (1) in the case of an offense under subsection (a)(1),,
 - (FOOTNOTE 1) where death results, by death or imprisonment for life and a fine of not more than \$1,000,000, or both; and
 - (FOOTNOTE 1) So in original.
- (2) a fine of not more than \$1,000,000 or imprisonment for not more than twenty years, or both, in any other case.

(c) Incitement Offense. -

Whoever in a circumstance described in subsection (d) directly and publicly incites another to violate subsection (a) shall be fined not more than \$500,000 or imprisoned not more than five years, or both.

(d) Required Circumstance for Offenses. -

The circumstance referred to in subsections (a) and (c) is that-

- (1) the offense is committed within the United States; or
- (2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(e) Nonapplicability of Certain Limitations. -

Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1), an indictment may be found, or information instituted, at any time without limitation.

Title 18 - Crimes And Criminal Procedure

Part i - Crimes

Chapter 63 - Mail Fraud

USC 18 1341 - Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or

intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Title 18 - Crimes And Criminal Procedure

Part i - Crimes

Chapter 73 - Obstruction Of Justice

USC 18 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress Shall be fined under this title or imprisoned not more than five years, or both.

Title 18 - Crimes And Criminal Procedure

Part i - Crimes

Chapter 115 - Treason, Sedition, and Subversive Activities

USC 18 2381. - Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States

USC 18 2382. - Misprision of treason

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both

USC 18 2383. - Rebellion or insurrection

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined under this title or imprisoned not more than ten years, or both; and shall be incapable of holding any office under the United States

USC 18 2384. - Seditious conspiracy

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than twenty years, or both

Title 42 - The Public Health and Welfare

Chapter 7 - Social Security

Subchapter IV - Grants to States for Aid and Services to Needy Families with Children and for Child Welfare Services

Part A - Block Grants to States for Temporary Assistance for Needy Families

USC 42 603 - Grants to States

(a) Grants

(1) Family assistance grant

(A) In general

Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, a grant in an amount equal to the State family assistance grant.

(B) "State family assistance grant" defined

As used in this part, the term "State family assistance grant" means the greatest of-

(i) 1/3 of the total amount required to be paid to the State under former section 603 of this title (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 602 of this title (as so in effect));

(ii)

(I) the total amount required to be paid to the State under former section 603 of this title for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 602 of this title (as so in effect)); plus

(II) an amount equal to 85 percent of the amount (if any) by which the total amount required to be paid to the State under former section 603(a)(5) of this title for emergency assistance for fiscal year 1995 exceeds the total amount required to be paid

to the State under former section 603(a)(5) of this title for fiscal year 1994, if, during fiscal year 1994 or 1995, the Secretary approved under former section 602 of this title an amendment to the former State plan with respect to the provision of emergency assistance; or

(iii) 4/3 of the total amount required to be paid to the State under former section 603 of this title (as in effect on September 30, 1995) for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F of this subchapter (as so in effect) or for child care under subsection (g) or (i) of former section 602 of this title (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under former section 603(l) of this title (as so in effect).

(C) "Total amount required to be paid to the State under former section 603" defined

As used in this part, the term "total amount required to be paid to the State under former section 603 of this title" means, with respect to a fiscal year -

(i) in the case of a State to which section 1308 of this title does not apply, the sum of -

(I) the Federal share of maintenance assistance expenditures for the fiscal year, before reduction pursuant to subparagraph (B) or (C) of section 603(b)(2) of this title (as in effect on September 30, 1995), as reported by the State on ACF Form 231;

(II) the Federal share of administrative expenditures (including administrative expenditures for the development of management information systems) for the fiscal year, as reported by the State on ACF Form 231;

(III) the Federal share of emergency assistance expenditures for the fiscal year, as reported by the State on ACF Form 231;

(IV) the Federal share of expenditures for the fiscal year with respect to child care pursuant to subsections (g) and (i) of former section 602 of this title (as in effect on September 30, 1995), as reported by the State on ACF Form 231; and

(V) the Federal obligations made to the State under section 603 of this title for the fiscal year with respect to the State program operated under part F of this subchapter (as in effect on September 30, 1995), as determined by the Secretary, including additional obligations or reductions in obligations made after the close of the fiscal year; and

(ii) in the case of a State to which section 1308 of this title applies, the lesser of -

(I) the sum described in clause (i); or

(II) the total amount certified by the Secretary under former section 603 of this title (as in effect during the fiscal year) with respect to the territory.

(D) Information to be used in determining amounts

(i) For fiscal years 1992 and 1993

(I) In determining the amounts described in subclauses (I) through (IV) of subparagraph (C)(i) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of April 28, 1995.

(II) In determining the amount described in subparagraph (C)(i)(V) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of January 6, 1995.

(ii) For fiscal year 1994

In determining the amounts described in subparagraph (C)(i) for any State for fiscal year 1994, the Secretary shall use information available as of April 28, 1995.

(iii) For fiscal year 1995

(I) In determining the amount described in subparagraph (B)(ii)(II) for any State for fiscal year 1995, the Secretary shall use the information which was reported by the States and estimates made by the States with respect to emergency assistance expenditures and was available as of August 11, 1995.

(II) In determining the amounts described in subclauses (I) through (III) of subparagraph (C)(i) for any State for fiscal year 1995, the Secretary shall use information available as of October 2, 1995.

(III) In determining the amount described in subparagraph (C)(i)(IV) for any State for fiscal year 1995, the Secretary shall use information available as of February 28, 1996.

(IV) In determining the amount described in subparagraph (C)(i)(V) for any State for fiscal year 1995, the Secretary shall use information available as of October 5, 1995.

(E) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as are necessary for grants under this paragraph.

(2) Bonus to reward decrease in illegitimacy ratio

(A) In general

Each eligible State shall be entitled to receive from the Secretary a grant for each bonus year.

(B) Amount of grant

(i) In general

If, for a bonus year, none of the eligible States is Guam, the Virgin Islands, or American Samoa, then the amount of the grant shall be -

(I) \$20,000,000 if there are 5 eligible States; or

(II) \$25,000,000 if there are fewer than 5 eligible States.

(ii) Amount if certain territories are eligible

If, for a bonus year, Guam, the Virgin Islands, or American Samoa is an eligible State, then the amount of the grant shall be -

(I) in the case of such a territory, 25 percent of the mandatory ceiling amount (as defined in section 1308(c)(4) of this title) with respect to the territory; and

(II) in the case of a State that is not such a territory -

(aa) if there are 5 eligible States other than such territories, \$20,000,000, minus 1/5 of the total amount of the grants payable under this paragraph to such territories for the bonus year; or

(bb) if there are fewer than 5 such eligible States, \$25,000,000, or such lesser amount as may be necessary to ensure that the total amount of grants payable under this paragraph for the bonus year does not exceed \$100,000,000.

(C) Definitions

As used in this paragraph:

(i) Eligible State

(I) In general

The term "eligible State" means a State that the Secretary determines meets the following requirements:

(aa) The State demonstrates that the illegitimacy ratio of the State for the most recent 2-year period for which such information is available decreased as compared to the illegitimacy ratio of the State for the previous 2-year period, and the magnitude of the decrease for the State for the period is not exceeded by the magnitude of the corresponding decrease for 5 or more other States for the period. In the case of a State that is not a territory specified in subparagraph (B), the comparative magnitude of the decrease for the State shall be determined without regard to the magnitude of the corresponding decrease for any such territory.

(bb) The rate of induced pregnancy terminations in the State for the calendar year for which the most recent data are available is less than the rate of induced pregnancy terminations in the State for calendar year 1995.

(II) Disregard of changes in data due to changed reporting methods

In making the determination required by subclause (I), the Secretary shall disregard-

(aa) any difference between the illegitimacy ratio of a State for a calendar year and the illegitimacy ratio of a State for calendar year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and

(bb) any difference between the rate of induced pregnancy terminations in a State for a calendar year and such rate for calendar year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

(ii) Bonus year

The term "bonus year" means calendar years 1999, 2000, 2001, and 2002.

(iii) Illegitimacy ratio

The term "illegitimacy ratio" means, with respect to a State and a period-

(I) the number of out-of-wedlock births to mothers residing in the State that occurred during the period; divided by

(II) the number of births to mothers residing in the State that occurred during the period.

(D) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2002, such sums as are necessary for grants under this paragraph.

(3) Supplemental grant for population increases in certain States

(A) In general

Each qualifying State shall, subject to subparagraph (F), be entitled to receive from the Secretary-

(i) for fiscal year 1998 a grant in an amount equal to 2.5 percent of the total amount required to be paid to the State under former section 603 of this title (as in effect during fiscal year 1994) for fiscal year 1994; and

(ii) for each of fiscal years 1999, 2000, and 2001, a grant in an amount equal to the sum of-

(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

(II) 2.5 percent of the sum of-

(aa) the total amount required to be paid to the State under former section 603 of this title (as in effect during fiscal year 1994) for fiscal year 1994; and

(bb) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year for which the grant is to be made.

(B) Preservation of grant without increases for States failing to remain qualifying States

Each State that is not a qualifying State for a fiscal year specified in subparagraph (A)(ii) but was a qualifying State for a prior fiscal year shall, subject to subparagraph (F), be entitled to receive from the Secretary for the specified fiscal year, a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year for which the State was a qualifying State.

(C) Qualifying State

(i) In general

For purposes of this paragraph, a State is a qualifying State for a fiscal year if-

(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

(II) the population growth rate of the State (as determined by the Bureau of the Census) for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

(ii) State must qualify in fiscal year 1998 Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1998 by reason of clause (i) if the State is not a qualifying State for fiscal year 1998 by reason of clause (i).

(iii) Certain States deemed qualifying States

For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1998, 1999, 2000, and 2001 if

(I) the level of welfare spending per poor person by the State for fiscal year 1994 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1994; or

(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, according to the population estimates in publication CB94-204 of the Bureau of the Census.

(D) Definitions

As used in this paragraph:

(i) Level of welfare spending per poor person

The term "level of State welfare spending per poor person" means, with respect to a State and a fiscal year-

(I) the sum of-

(aa) the total amount required to be paid to the State under former section 603 of this title (as in effect during fiscal year 1994) for fiscal year 1994; and

(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

(ii) National average level of State welfare spending per poor person

The term "national average level of State welfare spending per poor person" means, with respect to a fiscal year, an amount equal to -

(I) the total amount required to be paid to the States under former section 603 of this title (as in effect during fiscal year 1994) for fiscal year 1994; divided by

(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

(iii) State

The term "State" means each of the 50 States of the United States and the District of Columbia.

(E) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1998, 1999, 2000, and 2001 such sums as are necessary for grants under this paragraph, in a total amount not to exceed \$800,000,000.

(F) Grants reduced pro rata if insufficient appropriations

If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to any State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

(G) Budget scoring

Notwithstanding section 907(b)(2) of title 2, the baseline shall assume that no grant shall be made under this paragraph after fiscal year 2001.

(4) Bonus to reward high performance States

(A) In general

The Secretary shall make a grant pursuant to this paragraph to each State for each bonus year for which the State is a high performing State.

(B) Amount of grant

(i) In general

Subject to clause (ii) of this subparagraph, the Secretary shall determine the amount of the grant payable under this paragraph to a high performing State for a bonus year, which shall be based on the score assigned to the State under subparagraph (D)(i) for the fiscal year that immediately precedes the bonus year.

(ii) Limitation

The amount payable to a State under this paragraph for a bonus year shall not exceed 5 percent of the State family assistance grant.

(C) Formula for measuring State performance

Not later than 1 year after August 22, 1996, the Secretary, in consultation with the National Governors' Association and the American Public Welfare Association, shall develop a formula for measuring State performance in operating the State program funded under this part so as to achieve the goals set forth in section 601(a) of this title.

(D) Scoring of State performance; setting of performance thresholds

For each bonus year, the Secretary shall -

(i) use the formula developed under subparagraph (C) to assign a score to each eligible State for the fiscal year that immediately precedes the bonus year; and

(ii) prescribe a performance threshold in such a manner so as to ensure that-

(I) the average annual total amount of grants to be made under this paragraph for each bonus year equals \$200,000,000; and

(II) the total amount of grants to be made under this paragraph for all bonus years equals \$1,000,000,000.

(E) Definitions

As used in this paragraph:

(i) Bonus year

The term "bonus year" means fiscal years 1999, 2000, 2001, 2002, and 2003.

(ii) High performing State

The term "high performing State" means, with respect to a bonus year, an eligible State whose score assigned pursuant to subparagraph (D)(i) for the fiscal year immediately preceding the bonus year equals or exceeds the performance threshold prescribed under subparagraph (D)(ii) for such preceding fiscal year.

(F) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2003 \$1,000,000,000 for grants under this paragraph.

(5) Welfare-to-work grants

(A) Formula grants

(i) Entitlement

A State shall be entitled to receive from the Secretary of Labor a grant for each fiscal year specified in subparagraph (I) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of -

(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 609(a)(7)(B)(i) of this title) and any expenditure described in subclause (I), (II), or (IV) of section 609(a)(7)(B)(i) of this title) during the period permitted under subparagraph (C)(vii) of this paragraph for the expenditure of funds under the grant for activities described in subparagraph (C)(i) of this paragraph; or

(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

(ii) Welfare-to-work State

A State shall be considered a welfare-to-work State for a fiscal year for purposes of this paragraph if the Secretary of Labor determines that the State meets the following requirements:

(I) The State has submitted to the Secretary of Labor and the Secretary of Health and Human Services (in the form of an addendum to the State plan submitted under section 602 of this title) a plan which-

- (aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;
- (bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;
- (cc) contains evidence that the plan was developed in consultation and coordination with appropriate entities in subState areas;
- (dd) contains assurances by the Governor of the State that the private industry council (and any alternate agency designated by the Governor under item (ee)) for a service delivery area in the State will coordinate the expenditure of any funds provided under this subparagraph for the benefit of the service delivery area with the expenditure of the funds provided to the State under paragraph (1);
- (ee) if the Governor of the State desires to have an agency other than a private industry council administer the funds provided under this subparagraph for the benefit of 1 or more service delivery areas in the State, contains an application to the Secretary of Labor for a waiver of clause (vii)(I) with respect to the area or areas in order to permit an alternate agency designated by the Governor to so administer the funds; and
- (ff) describes how the State will ensure that a private industry council to which information is disclosed pursuant to section 603(a)(5)(K) or 654A(f)(5) of this title has procedures for safeguarding the information and for ensuring that the information is used solely for the purpose described in that section.

(II) The State has provided to the Secretary of Labor an estimate of the amount that the State intends to expend during the period permitted under subparagraph (C)(vii) of this paragraph for the expenditure of funds under the grant (excluding expenditures described in section 609(a)(7)(B)(iv) of this title (other than subclause (III) thereof)) pursuant to this paragraph.

(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance and funding of any evaluation under section 613(j) of this title, and to cooperate with the conduct of any such evaluation.

(IV) The State is an eligible State for the fiscal year.

(V) The State certifies that qualified State expenditures (within the meaning of section 609(a)(7) of this title) for the fiscal year will be not less than the applicable percentage of historic State expenditures (within the meaning of section 609(a)(7) of this title) with respect to the fiscal year.

(iii) Allotments to welfare-to-work States

(I) In general

Subject to this clause, the allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year, multiplied by the State percentage for the fiscal year.

(II) Minimum allotment

The allotment of a welfare-to-work State (other than Guam, the Virgin Islands, or American Samoa) for a fiscal year shall not be less than 0.25 percent of the available amount for the fiscal year.

(III) Pro rata reduction

Subject to subclause (II), the Secretary of Labor shall make prorata reductions in the allotments to States under this clause for a fiscal year as necessary to ensure that the total of the allotments does not exceed the available amount for the fiscal year.

(iv) Available amount

As used in this subparagraph, the term "available amount" means, for a fiscal year, the sum of-

(I) 75 percent of the sum of-

- (aa) the amount specified in subparagraph (I) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), (G), and (H) for the fiscal year; and
- (bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State, other than funds reserved by the State for distribution under clause (vi)(III) and funds distributed pursuant to clause (vi)(I) in any State in which the service delivery area is the State.

(v) State percentage

As used in clause (iii), the term "State percentage" means, with respect to a fiscal year, 1/2 of the sum of-

- (I) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States; and
- (II) the percentage represented by the number of adults who are recipients of assistance under the State program funded under this part divided by the number of adults in the United States who are recipients of assistance under any State program funded under this part.

(vi) Procedure for distribution of funds within States

(I) Allocation formula

A State to which a grant is made under this subparagraph shall devise a formula for allocating not less than 85 percent of the amount of the grant among the service delivery areas in the State, which -

- (aa) determines the amount to be allocated for the benefit of a service delivery area in proportion to the number (if any) by which the population of the area with an income that is less than the poverty line exceeds 7.5 percent of the total population of the area, relative to such number for all such areas in the State with such an excess, and accords a weight of not less than 50 percent to this factor;

(bb) may determine the amount to be allocated for the benefit of such an area in proportion to the number of adults residing in the area who have been recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first applied to

the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the State; and (cc) may determine the amount to be allocated for the benefit of such an area in proportion to the number of unemployed individuals residing in the area relative to the number of such individuals residing in the State.

(II) Distribution of funds

(aa) In general

If the amount allocated by the formula to a service delivery area is at least \$100,000, the State shall distribute the amount to the entity administering the grant in the area.

(bb) Special rule

If the amount allocated by the formula to a service delivery area is less than \$100,000, the sum shall be available for distribution in the State under subclause (III) during the fiscal year.

(III) Projects to help long-term recipients of assistance enter unsubsidized jobs

The Governor of a State to which a grant is made under this subparagraph may distribute not more than 5 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)(bb)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first applied to the State) enter unsubsidized employment.

(vii) Administration

(I) Private industry councils

The private industry council for a service delivery area in a State shall have sole authority, in coordination with the chief elected official (as described in section 103(c) of the Job Training Partnership Act (29 U.S.C. 1513(c)) or defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) of the area, to expend the amounts distributed under clause (vi)(II)(aa) for the benefit of the service delivery area, in accordance with the assurances described in clause (ii)(I)(dd) provided by the Governor of the State.

(II) Enforcement of coordination of expenditures with other expenditures under this part

Notwithstanding subclause (I) of this clause, on a determination by the Governor of a State that a private industry council (or an alternate agency described in clause (ii)(I)(dd)) has used funds provided under this subparagraph in a manner inconsistent with the assurances described in clause (ii)(I)(dd)-

(aa) the private industry council (or such alternate agency) shall remit the funds to the Governor; and

(bb) the Governor shall apply to the Secretary of Labor for a waiver of subclause (I) of this clause with respect to the service delivery area or areas involved in order to permit an alternate agency designated by the Governor to administer the funds in accordance with the assurances.

(III) Authority to permit use of alternate administering agency

The Secretary of Labor shall approve an application submitted under clause (ii)(I)(ee) or subclause (II)(bb) of this clause to waive subclause (I) of this clause with respect to 1 or more service delivery areas if the Secretary determines that the alternate agency designated in the application would improve the effectiveness or efficiency of the administration of amounts distributed under clause (vi)(II)(aa) for the benefit of the area or areas.

(viii) Data to be used in determining the number of adult TANF recipients

For purposes of this subparagraph, the number of adult recipients of assistance under a State program funded under this part for a fiscal year shall be determined using data for the most recent 12-month period for which such data is available before the beginning of the fiscal year.

(ix) Reversion of unallotted formula funds

If at the end of any fiscal year any funds available under this subparagraph have not been allotted due to a determination by the Secretary that any State has not met the requirements of clause (ii), such funds shall be transferred to the General Fund of the Treasury of the United States.

(B) Competitive grants

(i) In general

The Secretary of Labor shall award grants in accordance with this subparagraph, in fiscal years 1998 and 1999, for projects proposed by eligible applicants, based on the following:

(I) The effectiveness of the proposal in-

(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment.

(bb) moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment; and

(cc) moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment, even in labor markets that have a shortage of low skill jobs.

(II) At the discretion of the Secretary of Labor, any of the following:

(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

(dd) Plans of the applicant to coordinate with other organizations at the local and State level.

(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

(ii) Eligible applicants

As used in clause (i), the term "eligible applicant" means a private industry council for a service delivery area in a State, a political subdivision of a State, or a private entity applying in conjunction with the private industry council for such a service delivery area or with such a political subdivision, that submits a proposal developed in consultation with the Governor of the State.

(iii) Determination of grant amount

In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary of Labor shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of longterm recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary of Labor deems appropriate, in the area to be served by the project.

(iv) Consideration of needs of rural areas and cities with large concentrations of poverty

In making grants under this subparagraph, the Secretary of labor shall consider the needs of rural areas and cities with large concentrations of residents with an income that is less than the poverty line.

(v) Funding

For grants under this subparagraph for each fiscal year specified in subparagraph (I), there shall be available to the Secretary of Labor an amount equal to the sum of-

(I) 25 percent of the sum of-

(aa) the amount specified in subparagraph (I) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), (G), and (H) for the fiscal year; and

(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

(C) Limitations on use of funds

(i) Allowable activities

An entity to which funds are provided under this paragraph shall use the funds to move individuals into and keep individuals in lasting unsubsidized employment by means of any of the following:

(I) The conduct and administration of community service or work experience programs.

(II) Job creation through public or private sector employment wage subsidies.

(III) On-the-job training.

(IV) Contracts with public or private providers of readiness, placement, and postemployment services, or if the entity is not a private industry council or workforce investment board, the direct provision of such services.

(V) Job vouchers for placement, readiness, and postemployment services

(VI) Job retention or support services if such services are not otherwise available.

(VII) Not more than 6 months of vocational educational or job training.

Contracts or vouchers for job placement services supported by such funds must require that at least 1/2 of the payment occur after an eligible individual placed into the workforce has been in the workforce for 6 months.

(ii) General eligibility

An entity that operates a project with funds provided under this paragraph may expend funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who (I) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

(II) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 608(a)(7)(C) of this title that may apply to the individual.

(iii) Noncustodial parents

An entity that operates a project with funds provided under this paragraph may use the funds to provide services in a form described in clause (i) to noncustodial parents with respect to whom the requirements of the following subclauses are met:

(I) The noncustodial parent is unemployed, underemployed, or having difficulty in paying child support obligations.

(II) At least 1 of the following applies to a minor child of the noncustodial parent (with preference in the determination of the noncustodial parents to be provided services under this paragraph to be provided by the entity to those noncustodial parents with minor children who meet, or who have custodial parents who meet, the requirements of item (aa)):

(aa) The minor child or the custodial parent of the minor child meets the requirements of subclause (I) or (II) of clause (ii).

(bb) The minor child is eligible for, or is receiving, benefits under the program funded under this part.

(cc) The minor child received benefits under the program funded under this part in the 12-month period preceding the date of the determination but no longer receives such benefits.

(dd) The minor child is eligible for, or is receiving, assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), benefits under the supplemental security income program under subchapter XVI of this chapter, medical assistance under subchapter XIX of this chapter, or child health assistance under subchapter XXI of this chapter.

(III) In the case of a noncustodial parent who becomes enrolled in the project on or after November 29, 1999, the noncustodial parent is in compliance with the terms of an oral or written personal responsibility contract entered into among the noncustodial parent, the entity, and (unless the entity demonstrates to the Secretary that the entity is not capable of coordinating with such agency) the agency responsible for administering the State plan under part D of this subchapter, which was developed taking into account the employment and child support status of the noncustodial parent, which was entered into not later than 30 (or, at the option of the entity, not later than 90) days after the noncustodial parent was enrolled in the project, and which, at a minimum, includes the following:

(aa) A commitment by the noncustodial parent to cooperate, at the earliest opportunity, in the establishment of the paternity of the minor child, through voluntary acknowledgement or other procedures, and in the establishment of a child support order.

(bb) A commitment by the noncustodial parent to cooperate in the payment of child support for the minor child, which may include a modification of an existing support order to take into account the ability of the noncustodial parent to pay such support and the participation of such parent in the project.

(cc) A commitment by the noncustodial parent to participate in employment or related activities that will enable the noncustodial parent to make regular child support payments, and if the noncustodial parent has not attained 20 years of age, such related activities may include completion of high school, a general equivalency degree, or other education directly related to employment.

(dd) A description of the services to be provided under this paragraph, and a commitment by the noncustodial parent to participate in such services, that are designed to assist the noncustodial parent obtain and retain employment, increase earnings, and enhance the financial and emotional contributions to the wellbeing of the minor child.

In order to protect custodial parents and children who may be at risk of domestic violence, the preceding provisions of this subclause shall not be construed to affect any other provision of law requiring a custodial parent to cooperate in establishing the paternity of a child or establishing or enforcing a support order with respect to a child, or entitling a custodial parent to refuse, for good cause, to provide such cooperation as a condition of assistance or benefit under any program, shall not be construed to require such cooperation by the custodial parent as a condition of participation of either parent in the program authorized under this paragraph, and shall not be construed to require a custodial parent to cooperate with or participate in any activity under this clause. The entity operating a project under this clause with funds provided under this paragraph shall consult with domestic violence prevention and intervention organizations in the development of the project.

(iv) Targeting of hard to employ individuals with characteristics associated with long-term welfare dependence

An entity that operates a project with funds provided under this paragraph may expend not more than 30 percent of all funds provided to the project for programs that provide assistance in a form described in clause (i) -

(I) to recipients of assistance under the program funded under this part of the State in which the entity is located who have characteristics associated with long-term welfare dependence (such as school dropout, teen pregnancy, or poor work history), including, at the option of the State, by providing assistance in such form as a condition of receiving assistance under the State program funded under this part;

(II) to children -

(aa) who have attained 18 years of age but not 25 years of age; and

(bb) who, before attaining 18 years of age, were recipients of foster care maintenance payments (as defined in section 675(4) of this title) under part E of this subchapter or were in foster care under the responsibility of a State;

(III) to recipients of assistance under the State program funded under this part, determined to have significant barriers to self sufficiency, pursuant to criteria established by the local private industry council; or

(IV) to custodial parents with incomes below 100 percent of the poverty line (as defined in section 9902(2) of this title, including any revision required by such section, applicable to a family of the size involved). To the extent that the entity does not expend such funds in accordance with the preceding sentence, the entity shall expend such funds in accordance with clauses (ii) and (iii) and, as appropriate, clause (v).

(v) Authority to provide work-related services to individuals who have reached the 5 year limit

An entity that operates a project with funds provided under this paragraph may use the funds to provide assistance in a form described in clause (i) of this subparagraph to, or for the benefit of, individuals who (but for section 608(a)(7) of this title) would be eligible for assistance under the program funded under this part of the State in which the entity is located.

(vi) Relationship to other provisions of this part

(I) Rules governing use of funds

The rules of section 604 of this title, other than subsections (b), (f), and (h) of section 604 of this title, shall not apply to a grant made under this paragraph.

(II) Rules governing payments to States

The Secretary of Labor shall carry out the functions otherwise assigned by section 605 of this title to the Secretary of Health and Human Services with respect to the grants payable under this paragraph.

(III) Administration

Section 616 of this title shall not apply to the programs under this paragraph.

(vii) Prohibition against use of grant funds for any other fund matching requirement

An entity to which funds are provided under this paragraph shall not use any part of the funds, nor any part of State expenditures made to match the funds, to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under subsection (b) of this section or section 618 of this title or any other provision of this chapter or other Federal law.

(viii) Deadline for expenditure

An entity to which funds are provided under this paragraph shall remit to the Secretary of Labor any part of the funds that are not expended within 3 years after the date the funds are so provided.

(ix) Regulations

Within 90 days after August 5, 1997, the Secretary of Labor, after consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall prescribe such regulations as may be necessary to implement this paragraph.

(x) Reporting requirements

The Secretary of Labor, in consultation with the Secretary of Health and Human Services, States, and organizations that represent State or local governments, shall establish requirements for the collection and maintenance of financial and participant information and the reporting of such information by entities carrying out activities under this paragraph.

(D) Definitions

(i) Individuals with income less than the poverty line

For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined for a fiscal year -

(I) based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for States and counties (or, in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa, other poverty data selected by the Secretary of Labor); and

(II) using data for the most recent year for which such data is available before the beginning of the fiscal year.

(ii) Private industry council

As used in this paragraph, the term "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or title I of the Workforce Investment Area (FOOTNOTE 1) of 1998 (29 U.S.C. 2801 et seq.), as appropriate. (FOOTNOTE 1) So in original. Probably should be "Act".

(iii) Service delivery area

As used in this paragraph, the term "service delivery area" shall have the meaning given such term for purposes of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or shall mean a local area as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), as appropriate.

(E) Set-aside for successful performance bonus

(i) In general

The Secretary of Labor shall award a grant in accordance with this subparagraph to each successful performance State in fiscal year 2000, but shall not make any outlay to pay any such grant before October 1, 2000.

(ii) Amount of grant

The Secretary of Labor shall determine the amount of the grant payable under this subparagraph to a successful performance State, which shall be based on the score assigned to the State under clause (iv)(I)(aa) for such prior period as the Secretary of Labor deems appropriate.

(iii) Formula for measuring State performance

Not later than 1 year after August 5, 1997, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, the National Governors' Association, and the American Public Welfare Association, shall develop a formula for measuring -

(I) the success of States in placing individuals in private sector employment or in any kind of employment, through programs operated with funds provided under subparagraph (A);

(II) the duration of such placements;

(III) any increase in the earnings of such individuals; and

(IV) such other factors as the Secretary of Labor deems appropriate concerning the activities of the States with respect to such individuals.

The formula may take into account general economic conditions on a State-by-State basis.

(iv) Scoring of State performance; setting of performance thresholds

(I) In general

The Secretary of Labor shall -

(aa) use the formula developed under clause (iii) to assign a score to each State that was a welfare-to-work State for fiscal years 1998 and 1999; and

(bb) prescribe a performance threshold in such a manner so as to ensure that the total amount of grants to be made under this paragraph equals \$50,000,000.

(II) Availability of welfare-to-work data submitted to the Secretary of HHS

The Secretary of Health and Human Services shall provide the Secretary of Labor with the data reported by States under this part with respect to programs operated with funds provided under subparagraph (A).

(v) "Successful performance State" defined

As used in this subparagraph, the term "successful performance State" means a State whose score assigned pursuant to clause

(iv)(I)(aa) equals or exceeds the performance threshold prescribed under clause (iv)(I)(bb).

(vi) Set-aside

\$50,000,000 of the amount specified in subparagraph (I) for fiscal year 1999 shall be reserved for grants under this subparagraph.

(F) Funding for Indian tribes

1 percent of the amount specified in subparagraph (I) for fiscal year 1998 and \$1,500,000 of the amount so specified for fiscal year 1999 shall be reserved for grants to Indian tribes under section 612(a)(3) of this title.

(G) Funding for evaluations of welfare-to-work programs

0.6 percent of the amount specified in subparagraph (I) for fiscal year 1998 and \$900,000 of the amount so specified for fiscal year 1999 shall be reserved for use by the Secretary to carry out section 613(j) of this title.

(H) Funding for evaluation of abstinence education programs

(i) In general

0.2 percent of the amount specified in subparagraph (I) for fiscal year 1998 and \$300,000 of the amount so specified for fiscal year 1999 shall be reserved for use by the Secretary to evaluate programs under section 710 of this title, directly or through grants, contracts, or interagency agreements.

(ii) Authority to use funds for evaluations of welfare-to-work programs

Any such amount not required for such evaluations shall be available for use by the Secretary to carry out section 613(j) of this title.

(iii) Deadline for outlays

Outlays from funds used pursuant to clause (i) for evaluation of programs under section 710 of this title shall not be made after fiscal year 2001.

(I) Appropriations

(i) In general

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for grants under this paragraph -

(I) \$1,500,000,000 for fiscal year 1998; and

(II) \$1,450,000,000 for fiscal year 1999.

(ii) Availability

The amounts made available pursuant to clause (i) shall remain available for such period as is necessary to make the grants provided for in this paragraph.

- (J) Worker protections
- (i) Nondisplacement in work activities
 - (I) General prohibition

Subject to this clause, an adult in a family receiving assistance attributable to funds provided under this paragraph may fill a vacant employment position in order to engage in a work activity.
 - (II) Prohibition against violation of contracts

A work activity engaged in under a program operated with funds provided under this paragraph shall not violate an existing contract for services or a collective bargaining agreement, and such a work activity that would violate a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization and employer concerned.
 - (III) Other prohibitions

An adult participant in a work activity engaged in under a program operated with funds provided under this paragraph shall not be employed or assigned -

 - (aa) when any other individual is on layoff from the same or any substantially equivalent job;
 - (bb) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the participant; or
 - (cc) if the employer has caused an involuntary reduction to less than full time in hours of any employee in the same or a substantially equivalent job.
 - (ii) Health and safety

Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of other participants engaged in a work activity under a program operated with funds provided under this paragraph.
 - (iii) Nondiscrimination

In addition to the protections provided under the provisions of law specified in section 608(c) of this title an individual may not be discriminated against by reason of gender with respect to participation in work activities engaged in under a program operated with funds provided under this paragraph.
 - (iv) Grievance procedure
 - (I) In general

Each State to which a grant is made under this paragraph shall establish and maintain a procedure for grievances or complaints from employees alleging violations of clause (i) and participants in work activities alleging violations of clause (i), (ii), or (iii).
 - (II) Hearing

The procedure shall include an opportunity for a hearing.
 - (III) Remedies

The procedure shall include remedies for violation of clause (i), (ii), or (iii), which may continue during the pendency of the procedure, and which may include -

 - (aa) suspension or termination of payments from funds provided under this paragraph;
 - (bb) prohibition of placement of a participant with an employer that has violated clause (i), (ii), or (iii);
 - (cc) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and
 - (dd) where appropriate, other equitable relief.
 - (IV) Appeals
 - (aa) Filing

Not later than 30 days after a grievant or complainant receives an adverse decision under the procedure established pursuant to subclause (I), the grievant or complainant may appeal the decision to a State agency designated by the State which shall be independent of the State or local agency that is administering the programs operated with funds provided under this paragraph and the State agency administering, or supervising the administration of, the State program funded under this part.
 - (bb) Final determination

Not later than 120 days after the State agency designated under item (aa) receives a grievance or complaint made under the procedure established by a State pursuant to subclause (I), the State agency shall make a final determination on the appeal.
 - (v) Rule of interpretation

This subparagraph shall not be construed to affect the authority of a State to provide or require workers' compensation.
 - (vi) Nonpreemption of State law

The provisions of this subparagraph shall not be construed to preempt any provision of State law that affords greater protections to employees or to other participants engaged in work activities under a program funded under this part than is afforded by such provisions of this subparagraph.
- (K) Information disclosure
- If a State to which a grant is made under this section establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing to a private industry council the names, addresses, telephone numbers, and identifying case number information in the State program funded under this part, of noncustodial parents residing in the service delivery area of the private industry council, for the purpose of identifying and contacting noncustodial parents regarding participation in the program under this paragraph.
- (b) Contingency Fund
- (1) Establishment

There is hereby established in the Treasury of the United States a fund which shall be known as the "Contingency Fund for State Welfare Programs" (in this section referred to as the "Fund").
 - (2) Deposits into Fund

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997, 1998, 1999, 2000, and 2001 such sums as are necessary for payment to the Fund in a total amount not to exceed \$2,000,000,000, reduced by the sum of the dollar amounts specified in paragraph (6)(C)(ii).

(3) Grants

(A) Provisional payments

If an eligible State submits to the Secretary a request for funds under this paragraph during an eligible month, the Secretary shall, subject to this paragraph, pay to the State, from amounts appropriated pursuant to paragraph (2), an amount equal to the amount of funds so requested.

(B) Payment priority

The Secretary shall make payments under subparagraph (A) in the order in which the Secretary receives requests for such payments.

(C) Limitations

(i) Monthly payment to a State

The total amount paid to a single State under subparagraph (A) during a month shall not exceed 1/12 of 20 percent of the State family assistance grant.

(ii) Payments to all States

The total amount paid to all States under subparagraph (A) during fiscal years 1997 through 2001 shall not exceed the total amount appropriated pursuant to paragraph (2).

(4) "Eligible month" defined

As used in paragraph (3)(A), the term "eligible month" means, with respect to a State, a month in the 2-month period that begins with any month for which the State is a needy State.

(5) Needy State

For purposes of paragraph (4), a State is a needy State for a month if-

(A) the average rate of -

(i) total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent and

(ii) total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; or

(B) as determined by the Secretary of Agriculture (in the discretion of the Secretary of Agriculture), the monthly average number of individuals (as of the last day of each month) participating in the food stamp program in the State in the then most recently concluded 3-month period for which data are available exceeds by not less than 10 percent the lesser of

(i) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1994 if the amendments made by titles IV and VIII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 had been in effect throughout fiscal year 1994; or

(ii) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1995 if the amendments made by titles IV and VIII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 had been in effect throughout fiscal year 1995.

(6) Annual reconciliation

(A) In general

Notwithstanding paragraph (3), if the Secretary makes a payment to a State under this subsection in a fiscal year, then the State shall remit to the Secretary, within 1 year after the end of the first subsequent period of 3 consecutive months for which the State is not a needy State, an amount equal to the amount (if any) by which-

(i) the total amount paid to the State under paragraph (3) of this subsection in the fiscal year; exceeds

(ii) the product of -

(I) the Federal medical assistance percentage for the State (as defined in section 1396d(b) of this title, as such section was in effect on September 30, 1995);

(II) the State's reimbursable expenditures for the fiscal year; and

(III) 1/12 times the number of months during the fiscal year for which the Secretary made a payment to the State under such paragraph (3).

(B) Definitions

As used in subparagraph (A):

(i) Reimbursable expenditures

The term "reimbursable expenditures" means, with respect to a State and a fiscal year, the amount (if any) by which

(I) countable State expenditures for the fiscal year; exceeds

(II) historic State expenditures (as defined in section 609(a)(7)(B)(iii) of this title), excluding any amount expended by the State for child care under subsection (g) or (i) of section 602 of this title (as in effect during fiscal year 1994) for fiscal year 1994.

(ii) Countable State expenditures

The term "countable expenditures" means, with respect to a State and a fiscal year-

(I) the qualified State expenditures (as defined in section 609(a)(7)(B)(i) of this title (other than the expenditures described in subclause (I)(bb) of such section)) under the State program funded under this part for the fiscal year; plus

(II) any amount paid to the State under paragraph (3) during the fiscal year that is expended by the State under the State program funded under this part.

(C) Adjustment of State remittances

(i) In general

The amount otherwise required by subparagraph (A) to be remitted by a State for a fiscal year shall be increased by the lesser of

(I) the total adjustment for the fiscal year, multiplied by the adjustment percentage for the State for the fiscal year; or

(II) the unadjusted net payment to the State for the fiscal year.

(ii) Total adjustment

As used in clause (i), the term "total adjustment" means-

(I) in the case of fiscal year 1998, \$2,000,000;

(II) in the case of fiscal year 1999, \$9,000,000;

(III) in the case of fiscal year 2000, \$16,000,000; and

(IV) in the case of fiscal year 2001, \$13,000,000.

(iii) Adjustment percentage

As used in clause (i), the term "adjustment percentage" means, with respect to a State and a fiscal year

(I) the unadjusted net payment to the State for the fiscal year; divided by

(II) the sum of the unadjusted net payments to all States for the fiscal year.

(iv) Unadjusted net payment

As used in this subparagraph, the term, "unadjusted net payment" means with respect to a State and a fiscal year -

(I) the total amount paid to the State under paragraph (3) in the fiscal year; minus

(II) the amount that, in the absence of this subparagraph, would be required by subparagraph (A) or by section 609(a)(10) of this title to be remitted by the State in respect of the payment.

(7) "State" defined

As used in this subsection, the term "State" means each of the 50 States and the District of Columbia.

(8) Annual reports

The Secretary shall annually report to the Congress on the status of the Fund.

USC 42 608. Prohibitions; requirements

(a) In general

(1) No assistance for families without a minor child

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to a family, unless the family includes a minor child who resides with the family (consistent with paragraph (10)) or a pregnant individual.

(2) Reduction or elimination of assistance for noncooperation in establishing paternity or obtaining child support If the agency responsible for administering the State plan approved under part D of this subchapter determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State pursuant to section 654(29) of this title, then the State-

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part an amount equal to not less than 25 percent of the amount of such assistance; and

(B) may deny the family any assistance under the State program.

(3) No assistance for families not assigning certain support rights to the State

(A) In general

A State to which a grant is made under section 603 of this title shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family ceases to receive assistance under the program, which assignment, on and after such date, shall not apply with respect to any support (other than support collected pursuant to section 664 of this title) which accrued before the family received such assistance and which the State has not collected by

(i)

(I) September 30, 2000, if the assignment is executed on or after October 1, 1997, and before October 1, 2000; or

(II) the date the family ceases to receive assistance under the program, if the assignment is executed on or after October 1, 2000; or

(ii) if the State elects to distribute collections under section 657(a)(6) of this title, the date the family ceases to receive assistance under the program, if the assignment is executed on or after October 1, 1998.

(B) Limitation

A State to which a grant is made under section 603 of this title shall not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family ceases to receive assistance under the program.

(4) No assistance for teenage parents who do not attend high school or other equivalent training program

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in-

(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

(B) an alternative educational or training program that has been approved by the State.

(5) No assistance for teenage parents not living in adult-supervised settings

(A) In general

(i) Requirement

Except as provided in subparagraph (B), a State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

(ii) Individual described

For purposes of clause (i), an individual described in this clause is an individual who-

(I) has not attained 18 years of age; and

(II) is not married, and has a minor child in his or her care.

(B) Exception

(i) Provision of, or assistance in locating, adult-supervised living arrangement In the case of an individual who is described in clause (ii), the State agency referred to in section 602(a)(4) of this title shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current

living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

(ii) Individual described

For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and

(I) the individual has no parent, legal guardian, or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

(III) the State agency determines that-

(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

(iii) Second-chance home

For purposes of this subparagraph, the term "second-chance home" means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the wellbeing of their children.

(6) No medical services

(A) In general

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide medical services.

(B) Exception for pre-pregnancy family planning services

As used in subparagraph (A), the term "medical services" does not include pre-pregnancy family planning services.

(7) No assistance for more than 5 years

(A) In general

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences, subject to this paragraph.

(B) Minor child exception

In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part, the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was-

(i) a minor child; and

(ii) not the head of a household or married to the head of a household.

(C) Hardship exception

(i) In general

The State may exempt a family from the application of subparagraph (A) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

(ii) Limitation

The average monthly number of families with respect to which an exemption made by a State under clause (i) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which assistance is provided under the State program funded under this part during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect.

(iii) Battered or subject to extreme cruelty defined

For purposes of clause (i), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to -

(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;

(II) sexual abuse;

(III) sexual activity involving a dependent child;

(IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

(V) threats of, or attempts at, physical or sexual abuse;

(VI) mental abuse; or

(VII) neglect or deprivation of medical care.

(D) Disregard of months of assistance received by adult while living in Indian country or an Alaskan Native village with 50 percent unemployment

(i) In general

In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

(ii) "Indian country" defined

As used in clause (i), the term "Indian country" has the meaning given such term in section 1151 of title 18.

(E) Rule of interpretation

Subparagraph (A) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

(F) Rule of interpretation

This part shall not be interpreted to prohibit any State from expending State funds not originating with the Federal Government on benefits for children or families that have become ineligible for assistance under the State program funded under this part by reason of subparagraph (A).

(G) Inapplicability to welfare-to-work grants and assistance

For purposes of subparagraph (A) of this paragraph, a grant made under section 603(a)(5) of this title shall not be considered a grant made under section 603 of this title, and noncash assistance from funds provided under section 603(a)(5) of this title shall not be considered assistance.

(8) Denial of assistance for 10 years to a person found to have fraudulently misrepresented residence in order to obtain assistance in 2 or more States

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this subchapter subchapter XIX of this chapter, or the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or benefits in 2 or more States under the supplemental security income program under subchapter XVI of this chapter. The preceding sentence shall not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

(9) Denial of assistance for fugitive felons and probation and parole violators

(A) In general

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to any individual who is -

- (i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or
- (ii) violating a condition of probation or parole imposed under Federal or State law. The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

(B) Exchange of information with law enforcement agencies If a State to which a grant is made under section 603 of this title establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that

(i) the recipient -

(I) is described in subparagraph (A); or

(II) has information that is necessary for the officer to conduct the official duties of the officer; and

(ii) the location or apprehension of the recipient is within such official duties.

(10) Denial of assistance for minor children who are absent from the home for a significant period

(A) In general

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days as the State may provide for in the State plan submitted pursuant to section 602 of this title.

(B) State authority to establish good cause exceptions

The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 602 of this title.

(C) Denial of assistance for relative who fails to notify State agency of absence of child

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part of the absence of the minor child from the home for the period specified in or provided for pursuant to subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

(11) Medical assistance required to be provided for certain families having earnings from employment or child support

(A) Earnings from employment

A State to which a grant is made under section 603 of this title and which has a State plan approved under subchapter XIX of this chapter shall provide that in the case of a family that is treated (under section 1396u-1(b)(1)(A) of this title for purposes of subchapter XIX of this chapter) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid because of hours of or income from employment of the caretaker relative (as defined under this part as in effect on such date) or because of section 602(a)(8)(B)(ii)(II) of this title (as so in effect), and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under subchapter XIX of this chapter for an extended period or periods as provided in section 1396f or 1396a(e)(1) of this title (as applicable), and that the family will be appropriately notified of such extension as required by section 1396f(a)(2) of this title.

(B) Child support

A State to which a grant is made under section 603 of this title and which has a State plan approved under subchapter XIX of this chapter shall provide that in the case of a family that is treated (under section 1396u-1(b)(1)(A) of this title for purposes of

subchapter XIX of this chapter) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid as a result (wholly or partly) of the collection of child or spousal support under part D of this subchapter and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under subchapter XIX of this chapter for an extended period or periods as provided in section 1396u-1(c)(1) of this title.

(b) Individual responsibility plans

(1) Assessment

The State agency responsible for administering the State program funded under this part shall make an initial assessment of the skills, prior work experience, and employability of each recipient of assistance under the program who-

(A) has attained 18 years of age; or

(B) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

(2) Contents of plans

(A) In general

On the basis of the assessment made under subsection (a) of this section with respect to an individual, the State agency, in consultation with the individual, may develop an individual responsibility plan for the individual, which-

(i) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

(ii) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

(iii) to the greatest extent possible is designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

(iv) describes the services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

(v) may require the individual to undergo appropriate substance abuse treatment.

(B) Timing

The State agency may comply with paragraph (1) with respect to an individual-

(i) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of aid under the State plan approved under part A of this subchapter (as in effect immediately before such effective date); or

(ii) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

(3) Penalty for noncompliance by individual

In addition to any other penalties required under the State program funded under this part, the State may reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State program to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

(4) State discretion

The exercise of the authority of this subsection shall be within the sole discretion of the State.

(c) Sanctions against recipients not considered wage reductions

A penalty imposed by a State against the family of an individual by reason of the failure of the individual to comply with a requirement under the State program funded under this part shall not be construed to be a reduction in any wage paid to the individual.

(d) Nondiscrimination provisions

The following provisions of law shall apply to any program or activity which receives funds provided under this part:

(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(2) Section 794 of title 29.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(e) Special rules relating to treatment of certain aliens

For special rules relating to the treatment of certain aliens, see title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) Special rules relating to treatment of non-213A aliens

The following rules shall apply if a State elects to take the income or resources of any sponsor of a non-213A alien into account in determining whether the alien is eligible for assistance under the State program funded under this part, or in determining the amount or types of such assistance to be provided to the alien:

(1) Deeming of sponsor's income and resources

For a period of 3 years after a non-213A alien enters the United States:

(A) Income deeming rule

The income of any sponsor of the alien and of any spouse of the sponsor is deemed to be income of the alien, to the extent that the total amount of the income exceeds the sum of -

(i) the lesser of -

(I) 20 percent of the total of any amounts received by the sponsor or any such spouse in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by the sponsor and any such spouse in producing self-employment income in such month; or (II) \$175;

(ii) the cash needs standard established by the State for purposes of determining eligibility for assistance under the State program funded under this part for a family of the same size and composition as the sponsor and any other individuals living in the same household as the sponsor who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal

income tax liability but whose needs are not taken into account in determining whether the sponsor's family has met the cash needs standard;

(iii) any amounts paid by the sponsor or any such spouse to individuals not living in the household who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability; and

(iv) any payments of alimony or child support with respect to individuals not living in the household.

(B) Resource deeming rule

The resources of a sponsor of the alien and of any spouse of the sponsor are deemed to be resources of the alien to the extent that the aggregate value of the resources exceeds \$1,500.

(C) Sponsors of multiple non-213A aliens

If a person is a sponsor of 2 or more non-213A aliens who are living in the same home, the income and resources of the sponsor and any spouse of the sponsor that would be deemed income and resources of any such alien under subparagraph (A) shall be divided into a number of equal shares equal to the number of such aliens, and the State shall deem the income and resources of each such alien to include 1 such share.

(2) Ineligibility of non-213A aliens sponsored by agencies; exception

A non-213A alien whose sponsor is or was a public or private agency shall be ineligible for assistance under a State program funded under this part, during a period of 3 years after the alien enters the United States, unless the State agency administering the program determines that the sponsor either no longer exists or has become unable to meet the alien's needs.

(3) Information provisions

(A) Duties of non-213A aliens

A non-213A alien, as a condition of eligibility for assistance under a State program funded under this part during the period of 3 years after the alien enters the United States, shall be required to provide to the State agency administering the program-

(i) such information and documentation with respect to the alien's sponsor as may be necessary in order for the State agency to make any determination required under this subsection, and to obtain any cooperation from the sponsor necessary for any such determination; and

(ii) such information and documentation as the State agency may request and which the alien or the alien's sponsor provided in support of the alien's immigration application.

(B) Duties of Federal agencies

The Secretary shall enter into agreements with the Secretary of State and the Attorney General under which any information available to them and required in order to make any determination under this subsection will be provided by them and the Secretary (who may, in turn, make the information available, upon request, to a concerned State agency).

(4) "Non-213A alien" defined

An alien is a non-213A alien for purposes of this subsection if the affidavit of support or similar agreement with respect to the alien that was executed by the sponsor of the alien's entry into the United States was executed other than pursuant to section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a).

(5) Inapplicability to alien minor sponsored by a parent

This subsection shall not apply to an alien who is a minor child if the sponsor of the alien or any spouse of the sponsor is a parent of the alien.

(6) Inapplicability to certain categories of aliens

This subsection shall not apply to an alien who is-

(A) admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157);

(B) paroled into the United States under section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) for a period of at least 1 year; or

(C) granted political asylum by the Attorney General under section 208 of such Act (8 U.S.C. 1158).

(g) State required to provide certain information

Each State to which a grant is made under section 603 of this title shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is not lawfully present in the United States.

Title 42 - The Public Health and Welfare

Chapter 7 - Social Security

Subchapter IV - Grants to States for Aid and Services to Needy Families with Children and for Child Welfare Services

Part D - Child Support and Establishment of Paternity

USC 42 652 - Duties of Secretary

(a) Establishment of separate organizational unit; duties

The Secretary shall establish, within the Department of Health and Human Services a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall-

(1) establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse) with whom the noncustodial parent's child is living as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4)

(A) review data and calculations transmitted by State agencies pursuant to section 654(15)(B) of this title on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 658 of this title;

(B) review annual reports submitted pursuant to section 654(15)(A) of this title and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States

(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the

- data and the accuracy of the reporting systems used in calculating performance indicators under subsection (g) of this section and section 658 of this title;
- (ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of -
 - (I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and
 - (II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and
 - (iii) for such other purposes as the Secretary may find necessary;
- (5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State, and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures;
- (6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;
- (7) provide technical assistance to the States to help them establish effective systems for collecting child and spousal support and establishing paternity, and specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee;
- (8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against noncustodial parents and, upon a finding that
- (A) another State has not undertaken to enforce the court order of the originating State against the noncustodial parent within a reasonable time, and
 - (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;
- (9) operate the Federal Parent Locator Service established by section 653 of this title;
- (10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:
- (A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part, including-
 - (i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;
 - (ii) the cost to the States and to the Federal Government of so furnishing the services; and
 - (iii) the number of cases involving families-
 - (I) who became ineligible for assistance under State programs funded under part A of this subchapter during a month in the fiscal year; and
 - (II) with respect to whom a child support payment was received in the month;
 - (B) costs and staff associated with the Office of Child Support Enforcement;
 - (C) the following data, separately stated for cases where the child is receiving assistance under a State program funded under part A of this subchapter (or foster care maintenance payments under part E of this subchapter) or formerly received such assistance or payments and the State is continuing to collect support assigned to it pursuant to section 608(a)(3) of this title or under section 671(a)(17) or 1396k of this title, and for all other cases under this part:
 - (i) the total number of cases in which a support obligation has been established in the fiscal year for which the report is submitted;
 - (ii) the total number of cases in which a support obligation has been established;
 - (iii) the number of cases in which support was collected during the fiscal year;
 - (iv) the total amount of support collected during such fiscal year and distributed as current support;
 - (v) the total amount of support collected during such fiscal year and distributed as arrearages;
 - (vi) the total amount of support due and unpaid for all fiscal years; and
 - (vii) the number of child support cases filed in each State in such fiscal year, and the amount of the collections made in each State in such fiscal year, on behalf of children residing in another State or against parents residing in another State;
 - (D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;
 - (E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the noncustodial parent's social security account number;
 - (F) the number of cases, by State, in which an applicant for or recipient of assistance under a State program funded under part A of this subchapter has refused to cooperate in identifying and locating the noncustodial parent and the number of cases in which refusal so to cooperate is based on good cause (as determined by the State);
 - (G) data, by State, on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government;
 - (H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report; and
 - (I) compliance, by State, with the standards established pursuant to subsections (h) and (i) of this section; and
- (11) not later than October 1, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for -
- (A) collection of child support through income withholding;
 - (B) imposition of liens; and
 - (C) administrative subpoenas.

(b) Certification of child support obligations to Secretary of the Treasury for collection

Treasury for collection

The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1986 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving assistance under the State program funded under part A of this subchapter) which is assigned to such State or is undertaken to be collected by such State pursuant to section 654(4) of this title. No amount may be certified for collection under this subsection except the amount of the delinquency under a court or administrative order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the Secretary of the Treasury for any costs involved in making the collection. All reimbursements shall be credited to the appropriation accounts which bore all or part of the costs involved in making the collections. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) Payment of child support collections to States

The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 657 of this title the amount of each collection made on behalf of such State pursuant to subsection (b) of this section.

(d) Child support management information system

(1) Except as provided in paragraph (3), the Secretary shall not approve the initial and annually updated advance automated data processing planning document, referred to in section 654(16) of this title, unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed management system referred to in section 654(16) of this title, including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) contains an implementation plan and backup procedures to handle possible failures,

(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

(G) provides such other information as the Secretary determines under regulation is necessary.

(2)

(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a) of this section, on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 654(16) of this title, with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 654(16) of this title.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 654(16) of this title that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automated data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 654(16) of this title, and shall waive the single statewide system requirement under sections 654(16) and 654a of this title, with respect to a State if-

(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State -

(i) for purposes of section 609(a)(8) of this title, to achieve the paternity establishment percentages (as defined in subsection (g)(2) of this section) and other performance measures that maybe established by the Secretary;

(ii) to submit data under section 654(15)(B) of this title that is complete and reliable;

(iii) to substantially comply with the requirements of this part; and

(iv) in the case of a request to waive the single statewide system requirement, to-

(I) meet all functional requirements of sections 654(16) and 654a of this title;

(II) ensure that calculation of distributions meets the requirements of section 657 of this title and accounts for distributions to children in different families or in different States or subState jurisdictions, and for distributions to other States;

(III) ensure that there is only one point of contact in the State which provides seamless case processing for all interstate case processing and coordinated, automated intrastate case management;

(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

(VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

(B)

(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1315(c) of this title; or

(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.

(e) Technical assistance to States

The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 654(16) of this title.

(f) Regulations

The Secretary shall issue regulations to require that State agencies administering the child support enforcement program under this part petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the noncustodial parent at a reasonable cost. Such regulation shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under subchapter XIX of this chapter with respect to the availability of health insurance coverage.

(g) Performance standards for State paternity establishment programs

(1) A State's program under this part shall be found, for purposes of section 609(a)(8) of this title, not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1994, its paternity establishment percentage for such fiscal year is based on reliable data and (rounded to the nearest whole percentage point) equals or exceeds

(A) 90 percent;

(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;

(C) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 3 percentage points;

(D) for a State with a paternity establishment percentage of not less than 45 percent but less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 4 percentage points;

(E) for a State with a paternity establishment percentage of not less than 40 percent but less than 45 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 5 percentage points; or

(F) for a State with a paternity establishment percentage of less than 40 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 6 percentage points.

In determining compliance under this section, a State may use as its paternity establishment percentage either the State's IV-D paternity establishment percentage (as defined in paragraph (2)(A)) or the State's statewide paternity establishment percentage (as defined in paragraph (2)(B)).

(2) For purposes of this section -

(A) the term "IV-D paternity establishment percentage" means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of children-

(i) who have been born out of wedlock,

(ii)

(I) except as provided in the last sentence of this paragraph, with respect to whom assistance is being provided under the State program funded under part A of this subchapter in the fiscal year or, at the option of the State, as of the end of such year, or

(II) with respect to whom services are being provided under the State's plan approved under this part in the fiscal year or, at the option of the State, as of the end of such year pursuant to an application submitted under section 654(4)(A)(ii) of this title, and

(iii) the paternity of whom has been established or acknowledged, bears to the total number of children born out of wedlock and (except as provided in such last sentence) with respect to whom assistance was being provided under the State program funded under part A of this subchapter as of the end of the preceding fiscal year or with respect to whom services were being provided under the State's plan approved under this part as of the end of the preceding fiscal year pursuant to an application submitted under section 654(4)(A)(ii) of this title;

(B) the term "statewide paternity establishment percentage" means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of minor children-

(i) who have been born out of wedlock, and

(ii) the paternity of whom has been established or acknowledged during the fiscal year, bears to the total number of children born out of wedlock during the preceding fiscal year; and

(C) the term "reliable data" means the most recent data available which are found by the Secretary to be reliable for purposes of this section.

For purposes of subparagraphs (A) and (B), the total number of children shall not include any child with respect to whom assistance is being provided under the State program funded under part A of this subchapter by reason of the death of a parent unless paternity is established for such child or any child with respect to whom an applicant or recipient is found by the State to qualify for a good cause or other exception to cooperation pursuant to section 654(29) of this title.

(3)

(A) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children in a State who are born out of wedlock or for whom support has not been established) that affect the ability of a State to meet the requirements of this subsection.

(B) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.

(h) Prompt State response to requests for child support assistance

The standards required by subsection (a)(1) of this section shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment pursuant to section 608(a)(3) of this title is in effect) for assistance in establishing and enforcing support orders, including requests to locate noncustodial parents, establish paternity, and initiate proceedings to establish and collect child support awards.

(i) Prompt State distribution of amounts collected as child support

- The standards required by subsection (a)(1) of this section shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 657 of this title, amounts collected as child support pursuant to the State's plan approved under this part.
- (j) Training of Federal and State staff, research and demonstration programs, and special projects of regional or national significance
Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to a plan approved under this part during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year) which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements, for
- (1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and
 - (2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.
- The amount appropriated under this subsection shall remain available until expended.
- (k) Denial of passports for nonpayment of child support
- (1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 654(31) of this title that an individual owes arrearages of child support in an amount exceeding \$5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to paragraph (2).
 - (2) The Secretary of State shall, upon certification by the Secretary transmitted under paragraph (1), refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.
 - (3) The Secretary and the Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.
- (l) Facilitation of agreements between State agencies and financial institutions
The Secretary, through the Federal Parent Locator Service, may aid State agencies providing services under State programs operated pursuant to this part and financial institutions doing business in two or more States in reaching agreements regarding the receipt from such institutions, and the transfer to the State agencies, of information that may be provided pursuant to section 666(a)(17)(A)(i) of this title, except that any State that, as of July 16, 1998, is conducting data matches pursuant to section 666(a)(17)(A)(i) of this title shall have until January 1, 2000, to allow the Secretary to obtain such information from such institutions that are operating in the State. For purposes of section 3413(d) of title 12, a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute

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(a) Establishment; purpose

- (1) The Secretary shall establish and conduct a Federal Parent Locator Service, under the direction of the designee of the Secretary referred to in section 652(a) of this title, which shall be used for the purposes specified in paragraphs (2) and (3).
 - (2) For the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations, the Federal Parent Locator Service shall obtain and transmit to any authorized person specified in subsection (c) of this section-
 - (A) information on, or facilitating the discovery of, the location of any individual-
 - (i) who is under an obligation to pay child support;
 - (ii) against whom such an obligation is sought;
 - (iii) to whom such an obligation is owed; or
 - (iv) who has or may have parental rights with respect to a child, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;
 - (B) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and
 - (C) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.
 - (3) For the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody or visitation determination, as defined in section 663(d)(1) of this title, the Federal Parent Locator Service shall be used to obtain and transmit the information specified in section 663(c) of this title to the authorized persons specified in section 663(d)(2) of this title.
- (b) Disclosure of information to authorized persons
- (1) Upon request, filed in accordance with subsection (d) of this section, of any authorized person, as defined in subsection (c) of this section for the information described in subsection (a)(2) of this section, or of any authorized person, as defined in section 663(d)(2) of this title for the information described in section 663(c) of this title, the Secretary shall, notwithstanding any other provision of law, provide through the Federal Parent Locator Service such information to such person, if such information-
 - (A) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services; or
 - (B) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e) of this section, from any other department, agency, or instrumentality of the United States or of any State, and is not prohibited from disclosure under paragraph (2).
 - (2) No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1) of this section. No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent, provided that-
 - (A) in response to a request from an authorized person (as defined in subsection (c) of this section and section 663(d)(2) of this title), the Secretary shall advise the authorized person that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse and that information can only be disclosed to a court or an agent of a court pursuant to subparagraph (B); and

- (B) information may be disclosed to a court or an agent of a court described in subsection (c)(2) of this section or section 663(d)(2)(B) of this title, if -
- (i) upon receipt of information from the Secretary, the court determines whether disclosure to any other person of that information could be harmful to the parent or the child; and
 - (ii) if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make any such disclosure.
- (3) Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 654(26) of this title.
- (c) "Authorized person" defined
- As used in subsection (a) of this section, the term "authorized person" means-
- (1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child and spousal support (including, when authorized under the State plan, any official of a political subdivision);
 - (2) the court which has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court;
 - (3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving assistance under a State program funded under part A of this subchapter) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against a noncustodial parent who has a duty to support and maintain any such child; and
 - (4) a State agency that is administering a program operated under a State plan under subpart 1 of part B of this subchapter, or a State plan approved under subpart 2 of part B of this subchapter or under part E of this subchapter.
- (d) Form and manner of request for information
- A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.
- (e) Compliance with request; search of files and records by head of any department, etc., of United States; transmittal of information to Secretary; reimbursement for cost of search; fees
- (1) Whenever the Secretary receives a request submitted under subsection (b) of this section which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c) of this section, he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.
 - (2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information). Whenever such services are furnished to an individual specified in subsection (c)(3) of this section, a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.
 - (3) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.
- (f) Arrangements and cooperation with State agencies
- The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) of this section and to transmit to the Secretary requests for information with regard to the whereabouts of noncustodial parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.
- (g) Reimbursement for reports by State agencies
- The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).
- (h) Federal Case Registry of Child Support Orders
- (1) In general
- Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A of this subchapter, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the "Federal Case Registry of Child Support Orders"), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case and order in each State case registry maintained pursuant to section 654a(e) of this title, as furnished (and regularly updated), pursuant to section 654a(f) of this title, by State agencies administering programs under this part.
- (2) Case and order information
- The information referred to in paragraph (1) with respect to a case or an order shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case or order. Beginning not later than October 1,

1999, the information referred to in paragraph (1) shall include the names and social security numbers of the children of such individuals.

(3) Administration of Federal tax laws

The Secretary of the Treasury shall have access to the information described in paragraph (2) for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support or residence of children.

(i) National Directory of New Hires

(1) In general

In order to assist States in administering programs under State plans approved under this part and programs funded under part A of this subchapter, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1997, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 653a(g)(2) of this title.

(2) Data entry and deletion requirements

(A) In general

Information provided pursuant to section 653a(g)(2) of this title shall be entered into the data base maintained by the National Directory of New Hires within two business days after receipt, and shall be deleted from the data base 24 months after the date of entry.

(B) 12-month limit on access to wage and unemployment compensation information

The Secretary shall not have access for child support enforcement purposes to information in the National Directory of New Hires that is provided pursuant to section 653a(g)(2)(B) of this title, if 12 months has elapsed since the date the information is so provided and there has not been a match resulting from the use of such information in any information comparison under this subsection.

(C) Retention of data for research purposes

Notwithstanding subparagraphs (A) and (B), the Secretary may retain such samples of data entered in the National Directory of New Hires as the Secretary may find necessary to assist in carrying out subsection (j)(5) of this section.

(3) Administration of Federal tax laws

The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

(4) List of multistate employers

The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 653a(b)(1)(B) of this title, and the State which each such employer has designated to receive such information.

(j) Information comparisons and other disclosures

(1) Verification by Social Security Administration

(A) In general

The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

(B) Verification by SSA

The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

(i) The name, social security number, and birth date of each such individual.

(ii) The employer identification number of each such employer.

(2) Information comparisons

For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall-

(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

(B) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

(3) Information comparisons and disclosures of information in all registries for subchapter IV program purposes

To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A of this subchapter, the Secretary shall

(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

(B) disclose information in such components to such State agencies.

(4) Provision of new hire information to the Social Security Administration

The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory.

(5) Research

The Secretary may provide access to data in each component of the Federal Parent Locator Service maintained under this section and to information reported by employers pursuant to section 653a(b) of this title for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A of this subchapter of this part, but without personal identifiers.

(6) Information comparisons and disclosure for enforcement of obligations on Higher Education Act loans and grants

(A) Furnishing of information by the Secretary of Education

The Secretary of Education shall furnish to the Secretary, on a quarterly basis or at such less frequent intervals as may be determined by the Secretary of Education, information in the custody of the Secretary of Education for comparison with information in the National Directory of New Hires, in order to obtain the information in such directory with respect to individuals who -

- (i) are borrowers of loans made under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.) that are in default; or
- (ii) owe an obligation to refund an overpayment of a grant awarded under such title.
- (B) Requirement to seek minimum information necessary

The Secretary of Education shall seek information pursuant to this section only to the extent essential to improving collection of the debt described in subparagraph (A).
- (C) Duties of the Secretary
 - (i) Information comparison; disclosure to the Secretary of Education

The Secretary, in cooperation with the Secretary of Education, shall compare information in the National Directory of New Hires with information in the custody of the Secretary of Education, and disclose information in that Directory to the Secretary of Education, in accordance with this paragraph, for the purposes specified in this paragraph.
 - (ii) Condition on disclosure

The Secretary shall make disclosures in accordance with clause (i) only to the extent that the Secretary determines that such disclosures do not interfere with the effective operation of the program under this part. Support collection under section 666(b) of this title shall be given priority over collection of any defaulted student loan or grant overpayment against the same income.
- (D) Use of information by the Secretary of Education

The Secretary of Education may use information resulting from a data match pursuant to this paragraph only-

 - (i) for the purpose of collection of the debt described in subparagraph (A) owed by an individual whose annualized wage level determined by taking into consideration information from the National Directory of New Hires exceeds \$16,000; and
 - (ii) after removal of personal identifiers, to conduct analyses of student loan defaults.
- (E) Disclosure of information by the Secretary of Education
 - (i) Disclosures permitted

The Secretary of Education may disclose information resulting from a data match pursuant to this paragraph only to-

 - (I) a guaranty agency holding a loan made under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) on which the individual is obligated;
 - (II) a contractor or agent of the guaranty agency described in subclause (I);
 - (III) a contractor or agent of the Secretary; and
 - (IV) the Attorney General.
 - (ii) Purpose of disclosure

The Secretary of Education may make a disclosure under clause (i) only for the purpose of collection of the debts owed on defaulted student loans, or overpayments of grants, made under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.).
 - (iii) Restriction on redisclosure

An entity to which information is disclosed under clause (i) may use or disclose such information only as needed for the purpose of collecting on defaulted student loans, or overpayments of grants, made under title IV of the Higher Education Act of 1965.
- (F) Reimbursement of HHS costs

The Secretary of Education shall reimburse the Secretary, in accordance with subsection (k)(3) of this section, for the additional costs incurred by the Secretary in furnishing the information requested under this subparagraph.
- (k) Fees
 - (1) For SSA verification

The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j) of this section.
 - (2) For information from State directories of new hires

The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by section 653a(g)(2) of this title, at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).
 - (3) For information furnished to State and Federal agencies

A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).
- (l) Restriction on disclosure and use
 - (1) In general

Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.
 - (2) Penalty for misuse of information in the National Directory of New Hires

The Secretary shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of \$1,000, for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) of this section by any officer or employee of the United States or any other person who knowingly and willfully violates this paragraph.
- (m) Information integrity and security

The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to -

 - (1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and
 - (2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.
- (n) Federal Government reporting

Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator

Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(o) Use of set-aside funds

Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to a plan approved under this part during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements, for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees. Amounts appropriated under this subsection for each of fiscal years 1997 through 2001 shall remain available until expended.

(p) "Support order" defined

As used in this part, the term "support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.

USC 42 654 - State plan for child and spousal support

A State plan for child and spousal support must -

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that the State will -

(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to -

(i) each child for whom

(I) assistance is provided under the State program funded under part A of this subchapter,

(II) benefits or services for foster care maintenance are provided under the State program funded under part E of this subchapter,

(III) medical assistance is provided under the State plan approved under subchapter XIX of this chapter, or

(IV) cooperation is required pursuant to section 2015(l)(1) of title 7, unless, in accordance with paragraph (29), good cause or other exceptions exist;

(ii) any other child, if an individual applies for such services with respect to the child; and

(B) enforce any support obligation established with respect to -

(i) a child with respect to whom the State provides services under the plan; or

(ii) the custodial parent of such a child;

(5) provide that (A) in any case in which support payments are collected for an individual with respect to whom an assignment pursuant to section 608(a)(3) of this title is effective, such payments shall be made to the State for distribution pursuant to section 657 of this title and shall not be paid directly to the family, and the individual will be notified on a monthly basis (or on a quarterly basis for so long as the Secretary determines with respect to a State that requiring such notice on a monthly basis would impose an unreasonable administrative burden) of the amount of the support payments collected, and (B) in any case in which support payments are collected for an individual pursuant to the assignment made under section 1396k of this title, such payments shall be made to the State for distribution pursuant to section 1396k of this title, except that this clause shall not apply to such payments for any month after the month in which the individual ceases to be eligible for medical assistance;

(6) provide that -

(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;

(B) an application fee for furnishing such services shall be imposed on an individual, other than an individual receiving assistance under a State program funded under part A or E of this subchapter, or under a State plan approved under subchapter XIX of this chapter, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to subsection (l) or (m) of section 2015 of title 7, and shall be paid by the individual applying for such services, or recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and shall be considered income to the program), the amount of which

(i) will not exceed \$25 (or such higher or lower amount (which shall be uniform for all States) as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs), and

(ii) may vary among such individuals on the basis of ability to pay (as determined by the State);

(C) a fee of not more than \$25 may be imposed in any case where the State requests the Secretary of the Treasury to withhold past-due support owed to or on behalf of such individual from a tax refund pursuant to section 664(a)(2) of this title;

(D) a fee (in accordance with regulations of the Secretary) for performing genetic tests may be imposed on any individual who is not a recipient of assistance under a State program funded under part A of this subchapter; and

(E) any costs in excess of the fees so imposed may be collected -

(i) from the parent who owes the child or spousal support obligation involved; or

(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;

- (7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials and Indian tribes or tribal organizations (as defined in subsections (e) and (l) of section 450b of title 25)
- (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and
- (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;
- (8) provide that, for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or making or enforcing a child custody or visitation determination, as defined in section 663(d)(1) of this title the agency administering the plan will establish a service to locate parents utilizing-
- (A) all sources of information and available records; and
- (B) the Federal Parent Locator Service established under section 653 of this title, and shall, subject to the privacy safeguards required under paragraph (26), disclose only the information described in sections 653 and 663 of this title to the authorized persons specified in such sections for the purposes specified in such sections;
- (9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State
- (A) in establishing paternity, if necessary;
- (B) in locating a noncustodial parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State;
- (C) in securing compliance by a noncustodial parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of the child or children or the parent of such child or children with respect to whom aid is being provided under the plan of such other State;
- (D) in carrying out other functions required under a plan approved under this part; and
- (E) not later than March 1, 1997, in using the forms promulgated pursuant to section 652(a)(11) of this title for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;
- (10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;
- (11)
- (A) provide that amounts collected as support shall be distributed as provided in section 657 of this title; and
- (B) provide that any payment required to be made under section 656 or 657 of this title to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;
- (12) provide for the establishment of procedures to require the State to provide individuals who are applying for or receiving services under the State plan, or who are parties to cases in which services are being provided under the State plan-
- (A) with notice of all proceedings in which support obligations might be established or modified; and
- (B) with a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;
- (13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan;
- (14)
- (A) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe;
- (B) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary);
- (15) provide for -
- (A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and
- (B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including paternity establishment percentages) to the extent necessary for purposes of sections 652(g) and 658 of this title;
- (16) provide for the establishment and operation by the State agency, in accordance with an (initial and annually updated) advance automated data processing planning document approved under section 652(d) of this title, of a statewide automated data processing and information retrieval system meeting the requirements of section 654a of this title designed effectively and efficiently to assist management in the administration of the State plan, so as to control, account for, and monitor all the factors in the support enforcement collection and paternity determination process under such plan;
- (17) provide that the State will have in effect an agreement with the Secretary entered into pursuant to section 663 of this title for the use of the Parent Locator Service established under section 653 of this title, and provide that the State will accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorized persons, will impose and collect (in accordance with regulations of the Secretary) a fee sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, will transmit to the Secretary from time to time (in accordance with such regulations) so much of the fees collected as are attributable to such costs to the Secretary so incurred, and during the period that such agreement is in effect will otherwise comply with such agreement and regulations of the Secretary with respect thereto;
- (18) provide that the State has in effect procedures necessary to obtain payment of past-due support from overpayments made to the Secretary of the Treasury as set forth in section 664 of this title, and take all steps necessary to implement and utilize such procedures;

- (19) provide that the agency administering the plan-
- (A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency; and
 - (B) shall enforce any such child support obligations which are owed by such an individual but ~~are~~ not being met -
 - (i) through an agreement with such individual to have specified amounts withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law; or
 - (ii) in the absence of such an agreement, by bringing legal process (as defined in section 659(i)(5) of this title) to require the withholding of amounts from such compensation;
- (20) provide, to the extent required by section 666 of this title, that the State (A) shall have in effect all of the laws to improve child support enforcement effectiveness which are referred to in that section, and (B) shall implement the procedures which are prescribed in or pursuant to such laws;
- (21)
- (A) at the option of the State, impose a late payment fee on all overdue support (as defined in section 666(e) of this title) under any obligation being enforced under this part, in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than 6 percent) of the overdue support, which shall be payable by the noncustodial parent owing the overdue support; and
 - (B) assure that the fee will be collected in addition to, and only after full payment of, the overdue support, and that the imposition of the late payment fee shall not directly or indirectly result in a decrease in the amount of the support which is paid to the child (or spouse) to whom, or on whose behalf, it is owed;
- (22) in order for the State to be eligible to receive any incentive payments under section 658 of this title, provide that, if one or more political subdivisions of the State participate in the costs of carrying out activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share (as determined by the State) of any such incentive payments made to the State for such period, taking into account the efficiency and effectiveness of the activities carried out under the State plan by such political subdivision;
- (23) provide that the State will regularly and frequently publicize, through public service announcements, the availability of child support enforcement services under the plan and otherwise, including information as to any application fees for such services and a telephone number or postal address at which further information may be obtained and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate;
- (24) provide that the State will have in effect an automated data processing and information retrieval system
- (A) by October 1, 1997, which meets all requirements of this part which were enacted on or before October 13, 1988; and
 - (B) by October 1, 2000, which meets all requirements of this part enacted on or before August 22, 1996, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 344(a)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;
- (25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A of this subchapter, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family;
- (26) have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including-
- (A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish, modify, or enforce support, or to make or enforce a child custody determination;
 - (B) prohibitions against the release of information on the whereabouts of 1 party or the child to another party against whom a protective order with respect to the former party or the child has been entered;
 - (C) prohibitions against the release of information on the whereabouts of 1 party or the child to another person if the State has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or the child;
 - (D) in cases in which the prohibitions under subparagraphs (B) and (C) apply, the requirement to notify the Secretary, for purposes of section 653(b)(2) of this title, that the State has reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child; and
 - (E) procedures providing that when the Secretary discloses information about a parent or child to a State court or an agent of a State court described in section 653(c)(2) or 663(d)(2)(B) of this title, and advises that court or agent that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse pursuant to section 653(b)(2) of this title, the court shall determine whether disclosure to any other person of information received from the Secretary could be harmful to the parent or child and, if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure;
- (27) provide that, on and after October 1, 1998, the State agency will-
- (A) operate a State disbursement unit in accordance with section 654b of this title; and
 - (B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to -
 - (i) monitor and enforce support collections through the unit in cases being enforced by the State pursuant to paragraph (4) (including carrying out the automated data processing responsibilities described in section 654a(g) of this title); and
 - (ii) take the actions described in section 666(c)(1) of this title in appropriate cases;
- (28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 653af of this title;
- (29) provide that the State agency responsible for administering the State plan-

- (A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A of this subchapter, the State program under part E of this subchapter, the State program under subchapter XIX of this chapter, or the food stamp program, as defined under section 2012(h) of title 7, is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to good cause and other exceptions which
- (i) in the case of the State program funded under part A of this subchapter, the State program under part E of this subchapter, or the State program under subchapter XIX of this chapter shall, at the option of the State, be defined, taking into account the best interests of the child, and applied in each case, by the State agency administering such program; and
 - (ii) in the case of the food stamp program, as defined under section 2012(h) of title 7, shall be defined and applied in each case under that program in accordance with section 2015(l)(2) of title 7;
- (B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;
- (C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;
- (D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A of this subchapter, the State program under part E of this subchapter, the State program under subchapter XIX of this chapter, or the food stamp program, as defined under section 2012(h) of title 7; and
- (E) shall promptly notify the individual and the State agency administering the State program funded under part A of this subchapter, the State agency administering the State program under part E of this subchapter, the State agency administering the State program under subchapter XIX of this chapter, or the State agency administering the food stamp program, as defined under section 2012(h) of title 7, of each such determination, and if noncooperation is determined, the basis therefor;
- (30) provide that the State shall use the definitions established under section 652(a)(5) of this title in collecting and reporting information as required under this part;
- (31) provide that the State agency will have in effect a procedure for certifying to the Secretary, for purposes of the procedure under section 652(k) of this title, determinations that individuals owe arrearages of child support in an amount exceeding \$5,000, under which procedure -
- (A) each individual concerned is afforded notice of such determination and the consequences thereof, and a opportunity to contest the determination; and
 - (B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require;
- (32)
- (A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 659a(d) of this title shall be treated as a request by a State;
 - (B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and
 - (C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor); and
- (33) provide that a State that receives funding pursuant to section 628 of this title and that has within its borders Indian country (as defined in section 1151 of title 18) may enter into cooperative agreements with an Indian tribe or tribal organization (as defined in subsections (e) and (l) of section 450b of title 25), if the Indian tribe or tribal organization demonstrates that such tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to establish paternity, establish, modify, or enforce support orders, or to enter support orders in accordance with child support guidelines established or adopted by such tribe or organization, under which the State and tribe or organization shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all collections pursuant to the functions performed by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute such collections in accordance with such agreement. The State may allow the jurisdiction which makes the collection involved to retain any application fee under paragraph (6)(B) or any late payment fee under paragraph (21). Nothing in paragraph (33) shall void any provision of any cooperative agreement entered into before August 22, 1996, nor shall such paragraph deprive any State of jurisdiction over Indian country (as so defined) that is lawfully exercised under section 1322 of title 25.

USC 42 654a - Automated data processing

(a) In general

In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

(b) Program management

The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including-

- (1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and
- (2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

(c) Calculation of performance indicators

In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 652(g) and 658 of this title, the State agency shall-

- (1) use the automated system-
 - (A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and
 - (B) to calculate the paternity establishment percentage for the State for each fiscal year; and

- (2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).
- (d) Information integrity and security
- The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):
- (1) Policies restricting access
- Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which
- (A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and
 - (B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.
- (2) Systems controls
- Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).
- (3) Monitoring of access
- Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.
- (4) Training and information
- Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.
- (5) Penalties
- Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.
- (e) State case registry
- (1) Contents
- The automated system required by this section shall include a registry (which shall be known as the "State case registry") that contains records with respect to-
- (A) each case in which services are being provided by the State agency under the State plan approved under this part; and
 - (B) each support order established or modified in the State on or after October 1, 1998.
- (2) Linking of local registries
- The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.
- (3) Use of standardized data elements
- Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on case status) as the Secretary may require.
- (4) Payment records
- Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of
- (A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;
 - (B) any amount described in subparagraph (A) that has been collected;
 - (C) the distribution of such collected amounts;
 - (D) the birth date and, beginning not later than October 1, 1999, the social security number, of any child for whom the order requires the provision of support; and
 - (E) the amount of any lien imposed with respect to the order pursuant to section 666(a)(4) of this title.
- (5) Updating and monitoring
- The State agency operating the automated system required by this section shall promptly establish and update, maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of-
- (A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;
 - (B) information obtained from comparison with Federal, State, or local sources of information;
 - (C) information on support collections and distributions; and
 - (D) any other relevant information.
- (f) Information comparisons and other disclosures of information
- The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:
- (1) Federal Case Registry of Child Support Orders
- Furnishing to the Federal Case Registry of Child Support Orders established under section 653(h) of this title (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).
- (2) Federal Parent Locator Service
- Exchanging information with the Federal Parent Locator Service for the purposes specified in section 653 of this title.
- (3) Temporary family assistance and medicaid agencies
- Exchanging information with State agencies (of the State and of other States) administering programs funded under part A of this subchapter, programs operated under a State plan approved under subchapter XIX of this chapter, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

- (4) Intrastate and interstate information comparisons
Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.
- (5) Private industry councils receiving welfare-to-work grants
Disclosing to a private industry council (as defined in section 603(a)(5)(D)(ii) of this title) to which funds are provided under section 603(a)(5) of this title the names, addresses, telephone numbers, and identifying case number information in the State program funded under part A of this subchapter, of noncustodial parents residing in the service delivery area of the private industry council, for the purpose of identifying and contacting noncustodial parents regarding participation in the program under section 603(a)(5) of this title.
- (g) Collection and distribution of support payments
 - (1) In general
The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 654b of this title, through the performance of functions, including, at a minimum -
 - (A) transmission of orders and notices to employers (and other debtors) for the withholding of income
 - (i) within 2 business days after receipt of notice of, and the income source subject to, such withholding from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State; and
 - (ii) using uniform formats prescribed by the Secretary;
 - (B) ongoing monitoring to promptly identify failures to make timely payment of support; and
 - (C) automatic use of enforcement procedures (including procedures authorized pursuant to section 666(c) of this title) if payments are not timely made.
 - (2) "Business day" defined
As used in paragraph (1), the term "business day" means a day on which State offices are open for regular business.
- (h) Expedited administrative procedures
The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 666(c) of this title.

USC 42 654b. Collection and disbursement of support payments

- (a) State disbursement unit
 - (1) In general
In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the "State disbursement unit") for the collection and disbursement of payments under support orders
 - (A) in all cases being enforced by the State pursuant to section 654(4) of this title; and
 - (B) in all cases not being enforced by the State under this part in which the support order is initially issued in the State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to withholding pursuant to section 666(a)(8)(B) of this title.
 - (2) Operation
The State disbursement unit shall be operated -
 - (A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and
 - (B) except in cases described in paragraph (1)(B), in coordination with the automated system established by the State pursuant to section 654a of this title.
 - (3) Linking of local disbursement units
The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.
- (b) Required procedures
The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures-
 - (1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;
 - (2) for accurate identification of payments;
 - (3) to ensure prompt disbursement of the custodial parent's share of any payment; and
 - (4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent, except that in cases described in subsection (a)(1)(B) of this section, the State disbursement unit shall not be required to convert and maintain in automated form records of payments kept pursuant to section 666(a)(8)(B)(iii) of this title before the effective date of this section.
- (c) Timing of disbursements
 - (1) In general
Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 657(a) of this title within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided. The date of collection for amounts collected and distributed under this part is the date of receipt by the State disbursement unit, except that if current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month when due, the date of withholding may be deemed to be the date of collection.
 - (2) Permissive retention of arrearages
The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.
- (d) "Business day" defined
As used in this section, the term "business day" means a day on which State offices are open for regular business.

USC 42 657 - Distribution of collected support

(a) In general

Subject to subsections (e) and (f) of this section, an amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

(1) Families receiving assistance-

In the case of a family receiving assistance from the State, the State shall-

- (A) pay to the Federal Government the Federal share of the amount so collected; and
- (B) retain, or distribute to the family, the State share of the amount so collected.-

In no event shall the total of the amounts paid to the Federal Government and retained by the State exceed the total of the amounts that have been paid to the family as assistance by the State.

(2) Families that formerly received assistance-

In the case of a family that formerly received assistance from the State:

(A) Current support payments -

To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

(B) Payments of arrearages -

To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

(i) Distribution of arrearages that accrued after the family ceased to receive assistance

(I) Pre-October 1997 -

Except as provided in subclause (II), the provisions of this section as in effect and applied on the day before August 22, 1996 (other than subsection (b)(1) (as so in effect)), shall apply with respect to the distribution of support arrearages that (aa) accrued after the family ceased to receive assistance, and (bb) are collected before October 1, 1997.

(II) Post-September 1997 -

With respect to the amount so collected on or after October 1, 1997 (or before such date, at the option of the State)

(aa) In general -

The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

(bb) Reimbursement of governments for assistance provided to the family-

After the application of division (aa) and clause (ii)(II)(aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2) of this section) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

(cc) Distribution of the remainder to the family -

To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

(ii) Distribution of arrearages that accrued before the family received assistance

(I) Pre-October 2000 -

Except as provided in subclause (II), the provisions of this section as in effect and applied on the day before August 22, 1996 (other than subsection (b)(1) (as so in effect)), shall apply with respect to the distribution of support arrearages that (aa) accrued before the family received assistance, and (bb) are collected before October 1, 2000.

(II) Post-September 2000 -

Unless, based on the report required by paragraph (5), the Congress determines otherwise, with respect to the amount so collected on or after October 1, 2000 (or before such date, at the option of the State)-

(aa) In general -

The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued before the family received assistance from the State.

(bb) Reimbursement of governments for assistance provided to the family-

After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2) of this section) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

(cc) Distribution of the remainder to the family-

To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

(iii) Distribution of arrearages that accrued while the family received assistance-

In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

(iv) Amounts collected pursuant to section 664-

Notwithstanding any other provision of this section, any amount of support collected pursuant to section 664 of this title shall be retained by the State to the extent past-due support has been assigned to the State as a condition of receiving assistance from the State, up to the amount necessary to reimburse the State for amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount

collected pursuant to section 664 of this title exceeds the amount so retained, the State shall distribute the excess to the family.

(v) Ordering rules for distributions -

For purposes of this subparagraph, unless an earlier effective date is required by this section, effective October 1, 2000, the State shall treat any support arrearages collected, except for amounts collected pursuant to section 664 of this title as accruing in the following order:

(I) To the period after the family ceased to receive assistance.

(II) To the period before the family received assistance.

(III) To the period while the family was receiving assistance.

(3) Families that never received assistance -

In the case of any other family, the State shall distribute the amount so collected to the family.

(4) Families under certain agreements -

In the case of an amount collected for a family in accordance with a cooperative agreement under section 654(33) of this title, distribute the amount so collected pursuant to the terms of the agreement.

(5) Study and report -

Not later than October 1, 1999, the Secretary shall report to the Congress the Secretary's findings with respect to

(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

(6) State option for applicability -

Notwithstanding any other provision of this subsection, a State may elect to apply the rules described in clauses (i)(II), (ii)(II), and (v) of paragraph (2)(B) to support arrearages collected on and after October 1, 1998, and, if the State makes such an election, shall apply the provisions of this section, as in effect and applied on the day before August 22, 1996, other than subsection (b)(1) (as so in effect), to amounts collected before October 1, 1998.

(b) Continuation of assignments -

Any rights to support obligations, assigned to a State as a condition of receiving assistance from the State under part A of this subchapter and in effect on September 30, 1997 (or such earlier date, on or after August 22, 1996, as the State may choose), shall remain assigned after such date.

(c) Definitions -

As used in subsection (a) of this section:

(1) Assistance -

The term "assistance from the State" means-

(A) assistance under the State program funded under part A of this subchapter or under the State plan approved under part A of this subchapter (as in effect on the day before August 22, 1996); and

(B) foster care maintenance payments under the State plan approved under part E of this subchapter.

(2) Federal share -

The term "Federal share" means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the fiscal year in which the amount is distributed.

(3) Federal medical assistance percentage -

The term "Federal medical assistance percentage" means -

(A) 75 percent, in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

(B) the Federal medical assistance percentage (as defined in section 1396d(b) of this title, as such section was in effect on September 30, 1995) in the case of any other State.

(4) State share -

The term "State share" means 100 percent minus the Federal share.

(d) Hold-harmless provision If -

(1) the State share of amounts collected in the fiscal year which could be retained to reimburse the State for amounts paid to families as assistance by the State is less than the State share of such amounts collected in fiscal year 1995 (determined in accordance with this section as in effect on August 21, 1996); and

(2)

(A) the State has distributed to families that include an adult receiving assistance under the program under part A of this subchapter at least 80 percent of the current support payments collected during the preceding fiscal year on behalf of such families, and the amounts distributed were disregarded in determining the amount or type of assistance provided under the program under part A of this subchapter; or

(B) the State has distributed to families that formerly received assistance under the program under part A of this subchapter the State share of the amounts collected pursuant to section 664 of this title that could have been retained as reimbursement for assistance paid to such families, then the State share otherwise determined for the fiscal year shall be increased by an amount equal to one-half of the amount (if any) by which the State share for fiscal year 1995 exceeds the State share for the fiscal year (determined without regard to this subsection).

(e) Gap payments not subject to distribution under this section -

At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section 602(a)(28) of this title, as in effect and applied on the day

before August 22, 1996. For purposes of subsection (d) of this section, the State share of such amount paid to the family shall be considered amounts which could be retained by the State if such payments were reported by the State as part of the State share of amounts collected in fiscal year 1995.

(f) Amounts collected for child for whom foster care maintenance payments are made

Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E of this subchapter

(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of assistance under the State program funded under part A of this subchapter) which were made with respect to the child (and with respect to which past collections have not previously been retained); and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).

USC 42 658. - Incentive payments to States

(a) Purpose; requirement; quarterly payments

In order to encourage and reward State child support enforcement programs which perform in a cost effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for assistance under a program funded under part A of this subchapter, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of noncustodial parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e) of this section) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b) of this section.

(b) Incentive formula

(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to:

(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 608(a)(4) of this title or section 671(a)(17) of this title (with such total amount for any fiscal year being hereafter referred to in this section as the State's "title IVA collections" for that year), plus

(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State's "non-title IV-A collections" for that year).

(2) If subsection (c) of this section applies with respect to a State's title IVA collections or non-title IV-A collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State's incentive payment under this subsection for that year.

(3) The dollar amount of the portion of the State's incentive payment for any fiscal year which is determined on the basis of its non-title IV-A collections under paragraph (1)(B) (after adjustment under subsection (c) of this section if applicable) shall in no case exceed -

(A) the dollar amount of the portion of such payment which is determined on the basis of its title IVA collections under paragraph

(1)(A) (after adjustment under subsection (c) of this section if applicable) in the case of fiscal year 1986 or 1987;

(B) 105 percent of such dollar amount in the case of fiscal year 1988;

(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

(D) 115 percent of such dollar amount in the case of fiscal year 1990 or any fiscal year thereafter.

(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 655(a)(1)(A) of this title for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 655(a)(1)(A) of this title if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

(c) Increase in percentage; laboratory costs

If the total amount of a State's title IVA collections or non-title IV-A collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 654 of this title for which payment may be made under section 655 of this title (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's "combined title IV-A/non-title IV-A administrative costs" for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) of this section (with respect to such collections) shall be increased to

(1) 6.5 percent, plus

(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds 1.4;

except that the percent so specified shall in no event be increased (for either title IVA collections or non-title IV-A collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State's combined title IVA/non-title IV-A administrative costs for that year.

(d) Support collected on behalf of individuals residing in another State

In computing incentive payments under this section, support which is collected by one State at the request of another State, including amounts collected under section 666(a)(14) of this title, shall be treated as having been collected in full by each such State, and any amounts expended by the State in carrying out a special project assisted under section 655(e) of this title shall be excluded.

(e) Estimates by Secretary; quarterly payments

The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available. The Secretary shall make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated.

USC 42. 658a. - Incentive payments to States

(a) In general

In addition to any other payment under this part, the Secretary shall, subject to subsection (f) of this section, make an incentive payment to each State for each fiscal year in an amount determined under subsection (b) of this section.

(b) Amount of incentive payment

(1) In general

The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

(2) Incentive payment pool

(A) In general

In paragraph (1), the term "incentive payment pool" means -

- (i) \$422,000,000 for fiscal year 2000;
- (ii) \$429,000,000 for fiscal year 2001;
- (iii) \$450,000,000 for fiscal year 2002;
- (iv) \$461,000,000 for fiscal year 2003;
- (v) \$454,000,000 for fiscal year 2004;
- (vi) \$446,000,000 for fiscal year 2005;
- (vii) \$458,000,000 for fiscal year 2006;
- (viii) \$471,000,000 for fiscal year 2007;
- (ix) \$483,000,000 for fiscal year 2008; and
- (x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the second preceding fiscal year.

(B) CPI

For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term "Consumer Price Index" means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(3) State incentive payment share

In paragraph (1), the term "State incentive payment share" means, with respect to a fiscal year -

- (A) the incentive base amount for the State for the fiscal year; divided by
- (B) the sum of the incentive base amounts for all of the States for the fiscal year.

(4) Incentive base amount

In paragraph (3), the term "incentive base amount" means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

- (A) The paternity establishment performance level.
- (B) The support order performance level.
- (C) The current payment performance level.
- (D) The arrearage payment performance level.
- (E) The cost-effectiveness performance level.

(5) Maximum incentive base amount

(A) In general

For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is -

- (i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and
- (ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

(B) Data required to be complete and reliable

Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 652(a)(4)(C)(i) of this title, that the data which the State submitted pursuant to section 654(15)(B) of this title for the fiscal year and which is used to determine the performance level involved is complete and reliable.

(C) State collections base

For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of -

- (i) 2 times the sum of -
 - (I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this subchapter or subchapter XIX of this chapter; and
 - (II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

- (ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.
- (6) Determination of applicable percentages based on performance levels

(A) Paternity establishment

(i) Determination of paternity establishment performance level

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV-D paternity establishment percentage determined under section 652(g)(2)(A) of this title or the statewide paternity establishment percentage determined under section 652(g)(2)(B) of this title.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's paternity establishment performance level is as follows:

If the paternity establishment performance level is: At least: But less than:	The applicable percentage is:
80%	100
79% 80%	98
78% 79%	96
77% 78%	94
76% 77%	92
75% 76%	90
74% 75%	88
73% 74%	86
72% 73%	84
71% 72%	82
70% 71%	80
69% 70%	79
68% 69%	78
67% 68%	77
66% 67%	76
65% 66%	75
64% 65%	74
63% 64%	73
62% 63%	72
61% 62%	71
60% 61%	70
59% 60%	69
58% 59%	68
57% 58%	67
56% 57%	66
55% 56%	65
54% 55%	64
53% 54%	63
52% 53%	62
51% 52%	61
50% 51%	60
0% 50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

(B) Establishment of child support orders

(i) Determination of support order performance level

The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's support order performance level is as follows:

If the support order performance level is: At least: But less than:	The applicable percentage is:
80%	100
79% 80%	98
78% 79%	96
77% 78%	94
76% 77%	92
75% 76%	90
74% 75%	88
73% 74%	86
72% 73%	84
71% 72%	82
70% 71%	80
69% 70%	79
68% 69%	78

67% 68%	77
66% 67%	76
65% 66%	75
64% 65%	74
63% 64%	73
62% 63%	72
61% 62%	71
60% 61%	70
59% 60%	69
58% 59%	68
57% 58%	67
56% 57%	66
55% 56%	65
54% 55%	64
53% 54%	63
52% 53%	62
51% 52%	61
50% 51%	60
0% 50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

(C) Collections on current child support due

(i) Determination of current payment performance level

The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's current payment performance level is as follows

If the current payment performance level is: At least: But less than:	The applicable percentage is:
80%	100
79% 80%	98
78% 79%	96
77% 78%	94
76% 77%	92
75% 76%	90
74% 75%	88
73% 74%	86
72% 73%	84
71% 72%	82
70% 71%	80
69% 70%	79
68% 69%	78
67% 68%	77
66% 67%	76
65% 66%	75
64% 65%	74
63% 64%	73
62% 63%	72
61% 62%	71
60% 61%	70
59% 60%	69
58% 59%	68
57% 58%	67
56% 57%	66
55% 56%	65
54% 55%	64
53% 54%	63
52% 53%	62
51% 52%	61
50% 51%	60
49% 50%	59
48% 49%	58
47% 48%	57
46% 47%	56
45% 46%	55
44% 45%	54
43% 44%	53

42% 43%	52
41% 42%	51
40% 41%	50
0% 40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

(D) Collections on child support arrearages

(i) Determination of arrearage payment performance level

The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of pastdue child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is pastdue child support, expressed as a percentage.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's arrearage payment performance level is as follows:

If the arrearage payment performance level is: At least: But less than:	The applicable percentage is:
80%	100
79% 80%	98
78% 79%	96
77% 78%	94
76% 77%	92
75% 76%	90
74% 75%	88
73% 74%	86
72% 73%	84
71% 72%	82
70% 71%	80
69% 70%	79
68% 69%	78
67% 68%	77
66% 67%	76
65% 66%	75
64% 65%	74
63% 64%	73
62% 63%	72
61% 62%	71
60% 61%	70
59% 60%	69
58% 59%	68
57% 58%	67
56% 57%	66
55% 56%	65
54% 55%	64
53% 54%	63
52% 53%	62
51% 52%	61
50% 51%	60
49% 50%	59
48% 49%	58
47% 48%	57
46% 47%	56
45% 46%	55
44% 45%	54
43% 44%	53
42% 43%	52
41% 42%	51
40% 41%	50
0% 40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

(E) Cost-effectiveness

(i) Determination of cost-effectiveness performance level

The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

If the cost-effectiveness performance level is: At least: But less than:	The applicable percentage is:
5.00	100
4.50 4.99	90
4.00 4.50	80
3.50 4.00	70
3.00 3.50	60
2.50 3.00	50
2.00 2.50	40
0.00 2.00	0.

(c) Treatment of interstate collections

In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 655(e) of this title shall be excluded.

(d) Administrative provisions

The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at/or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

(f) Reinvestment

A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State -

(1) to carry out the State plan approved under this part; or

(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part

USC 42 664 - Collection of past-due support from Federal tax refunds

(a) Procedures applicable; distribution

(1) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past due support which has been assigned to such State pursuant to section 608(a)(3) or section 671(a)(17) of this title, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past due support, shall concurrently send notice to such individual that the withholding has been made (including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund), and shall pay such amount to the State agency (together with notice of the individual's home address) for distribution in accordance with section 657 of this title. This subsection may be executed by the disbursing official of the Department of the Treasury.

(2)

(A) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past due support (as that term is defined for purposes of this paragraph under subsection (c) of this section) which such State has agreed to collect under section 654(4)(A)(ii) of this title, and that the State agency has sent notice to such individual in accordance with paragraph (3)(A), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to such past-due support, and shall concurrently send notice to such individual that the withholding has been made, including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund. The Secretary of the Treasury shall pay the amount withheld to the State agency, and the State shall pay to the Secretary of the Treasury any fee imposed by the Secretary of the Treasury to cover the costs of the withholding and any required notification. The State agency shall, subject to paragraph (3)(B), distribute such amount to or on behalf of the child to whom the support was owed in accordance with section 657 of this title. This subsection may be executed by the Secretary of the Department of the Treasury or his designee.

(B) This paragraph shall apply only with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1985.

- (3)
- (A) Prior to notifying the Secretary of the Treasury under paragraph (1) or (2) that an individual owes pastdue support, the State shall send notice to such individual that a withholding will be made from any refund otherwise payable to such individual. The notice shall also (i) instruct the individual owing the pastdue support of the steps which may be taken to contest the State's determination that pastdue support is owed or the amount of the pastdue support, and (ii) provide information, as may be prescribed by the Secretary of Health and Human Services by regulation in consultation with the Secretary of the Treasury, with respect to procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.
 - (B) If the Secretary of the Treasury determines that an amount should be withheld under paragraph (1) or (2), and that the refund from which it should be withheld is based upon a joint return, the Secretary of the Treasury shall notify the State that the withholding is being made from a refund based upon a joint return, and shall furnish to the State the names and addresses of each taxpayer filing such joint return. In the case of a withholding under paragraph (2), the State may delay distribution of the amount withheld until the State has been notified by the Secretary of the Treasury that the other person filing the joint return has received his or her proper share of the refund, but such delay may not exceed six months.
 - (C) If the other person filing the joint return with the named individual owing the pastdue support takes appropriate action to secure his or her proper share of a refund from which a withholding was made under paragraph (1) or (2), the Secretary of the Treasury shall pay such share to such other person. The Secretary of the Treasury shall deduct the amount of such payment from amounts subsequently payable to the State agency to which the amount originally withheld from such refund was paid.
 - (D) In any case in which an amount was withheld under paragraph (1) or (2) and paid to a State, and the State subsequently determines that the amount certified as pastdue support was in excess of the amount actually owed at the time the amount withheld is to be distributed to or on behalf of the child, the State shall pay the excess amount withheld to the named individual thought to have owed the pastdue support (or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing such return).
- (b) Regulations; contents, etc.
- (1) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, prescribing the time or times at which States must submit notices of pastdue support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall be consistent with the provisions of subsection (a)(3) of this section, shall specify the minimum amount of pastdue support to which the offset procedure established by subsection (a) of this section may be applied, and the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure and shall provide that the Secretary of the Treasury will advise the Secretary of Health and Human Services, not less frequently than annually, of the States which have furnished notices of past due support under subsection (a) of this section, the number of cases in each State with respect to which such notices have been furnished, the amount of support sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State. Any fee paid to the Secretary of the Treasury pursuant to this subsection may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.
 - (2) In the case of withholdings made under subsection (a)(2) of this section, the regulations promulgated pursuant to this subsection shall include the following requirements:
 - (A) The withholding shall apply only in the case where the State determines that the amount of the pastdue support which will be owed at the time the withholding is to be made based upon the pattern of payment of support and other enforcement actions being pursued to collect the pastdue support, is equal to or greater than \$500. The State may limit the \$500 threshold amount to amounts of past-due support accrued since the time that the State first began to enforce the child support order involved under the State plan, and may limit the application of the withholding to pastdue support accrued since such time.
 - (B) The fee which the Secretary of the Treasury may impose to cover the costs of the withholding and notification may not exceed \$25 per case submitted.
- (c) "Past-due support" defined
- (1) Except as provided in paragraph (2), as used in this part the term "pastdue support" means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.
 - (2) For purposes of subsection (a)(2) of this section, the term "past-due support" means only pastdue support owed to or on behalf of a qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent).
 - (3) For purposes of paragraph (2), the term "qualified child" means a child-
 - (A) who is a minor; or
 - (B)
 - (i) who, while a minor, was determined to be disabled under subchapter II or XVI of this chapter; and
 - (ii) for whom an order of support is in force.

USC 42 666 - Requirement Of Statutorily Prescribed Procedures To Improve Effectiveness Of Child Support Enforcement

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

- (1)
 - (A) Procedures described in subsection (b) of this section for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.
 - (B) Procedures under which the income of a person with a support obligation imposed by a support order issued (or modified) in the State before January 1, 1994, if not otherwise subject to withholding under subsection (b) of this section, shall become subject to withholding as provided in subsection (b) of this section if arrearages occur, without the need for a judicial or administrative hearing.

(2) Expedited administrative and judicial procedures (including the procedures specified in subsection (c) of this section) for establishing paternity and for establishing, modifying, and enforcing support obligations. The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement or paternity establishment within the political subdivision (in accordance with the general rule for exemptions under subsection (d) of this section).

(3) Procedures under which the State child support enforcement agency shall request, and the State shall provide, that for the purpose of enforcing a support order under any State plan approved under this part -

(A) any refund of State income tax which would otherwise be payable to a noncustodial parent will be reduced, after notice has been sent to that noncustodial parent of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any overdue support owed by such noncustodial parent;

(B) the amount by which such refund is reduced shall be distributed in accordance with section 657 of this title in the case of overdue support assigned to a State pursuant to section 608(a)(3) or 671(a)(17) of this title, or, in any other case, shall be distributed, after deduction of any fees imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed; and

(C) notice of the noncustodial parent's social security account number (or numbers, if he has more than one such number) and home address shall be furnished to the State agency requesting the refund offset, and to the State agency enforcing the order.

(4) Liens. - Procedures under which -

(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or saving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to the enforcement of such a lien.

(5) Procedures concerning paternity establishment. -

(A) Establishment process available from birth until age 18.

(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

(B) Procedures concerning genetic testing. -

(i) Genetic testing required in certain contested cases. -

Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 654(29) of this title to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party -

(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

(ii) Other requirements. -

Procedures which require the State agency, in any case in which the agency orders genetic testing -

(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

(C) Voluntary paternity acknowledgment. -

(i) Simple civil process. -

Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally, or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

(ii) Hospital-based program. -

Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

(iii) Paternity establishment services. -

(I) State-offered services. -

Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

(II) Regulations. -

(aa) Services offered by hospitals and birth record agencies. -

The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

(bb) Services offered by other entities. -

The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

- (iv) Use of paternity acknowledgment affidavit.-
Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 652(a)(7) of this title for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.
- (D) Status of signed paternity acknowledgment.-
 - (i) Inclusion in birth records.-
Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if -
 - (I) the father and mother have signed a voluntary acknowledgment of paternity; or
 - (II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity. Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which uses a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.
 - (ii) Legal finding of paternity.-
Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of -
 - (I) 60 days; or
 - (II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.
 - (iii) Contest.-
Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.
- (E) Bar on acknowledgment ratification proceedings.-
Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.
- (F) Admissibility of genetic testing results.-
Procedures -
 - (i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is
 - (I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and
 - (II) performed by a laboratory approved by such an accreditation body;
 - (ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and
 - (iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.
- (G) Presumption of paternity in certain cases.-
Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.
- (H) Default orders.-
Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.
- (I) No right to jury trial.-
Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.
- (J) Temporary support order based on probable paternity in contested cases.-
Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).
- (K) Proof of certain support and paternity establishment costs.-
Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.
- (L) Standing of putative fathers.-
Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.
- (M) Filing of acknowledgments and adjudications in state registry of birth records.-
Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.
- (6) Procedures which require that a noncustodial parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such noncustodial parent of the proposed action and of the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).
- (7) Reporting arrearages to credit bureaus.-
 - (A) In general.-
Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 1681a(f) of title 15) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.
 - (B) Safeguards.-
Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported

- (i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and
 - (ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).
- (8) (A) Procedures under which all child support orders not described in subparagraph (B) will include provision for withholding from income, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing application for services under this part.
- (B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being enforced under this part will include the following requirements:
- (i) The income of a noncustodial parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such income shall not be subject to withholding under this clause in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.
 - (ii) The requirements of subsection (b)(1) of this section (which shall apply in the case of each noncustodial parent against whom a support order is or has been issued or modified in the State, without regard to whether the order is being enforced under the State plan).
 - (iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b) of this section, where applicable.
 - (iv) Withholding from income of amounts payable as support must be carried out in full compliance with a procedural due process requirements of the State.
- (9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due)-
- (A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced,
 - (B) entitled as a judgment to full faith and credit in such State and in any other State, and
 - (C) not subject to retroactive modification by such State or by any other State; except that such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.
- (10) Review and adjustment of support orders upon request.-
- (A) 3-year cycle. -
 - (i) In general. -

Procedures under which every 3 years (or such shorter cycle as the State may determine), upon the request of either parent, or, if there is an assignment under part A of this subchapter, upon the request of the State agency under the State plan or of either parent, the State shall with respect to a support order being enforced under this part, taking into account the best interests of the child involved -

 - (I) review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 667(a) of this title if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines;
 - (II) apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or
 - (III) use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.
 - (ii) Opportunity to request review of adjustment. -

If the State elects to conduct the review under subclause (II) or (III) of clause (i), procedures which permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 667(a) of this title.
 - (iii) No proof of change in circumstances necessary in 3-year cycle review. -

Procedures which provide that any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.
 - (B) Proof of substantial change in circumstances necessary in request for review outside 3-year cycle. -

Procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under clause (i), the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 667(a) of this title.
 - (C) Notice of right to review. -

Procedures which require the State to provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.
- (11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.
- (12) Locator information from interstate networks.-
- Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.
- (13) Recording of social security numbers in certain family matters.- Procedures requiring that the social security number of-
- (A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;

(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate. For purposes of subparagraph (A), if a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.

(14) High-volume, automated administrative enforcement in interstate cases.-

(A) In general. -

Procedures under which -

- (i) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;
- (ii) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request -
 - (I) shall include such information as will enable the State to which the request is transmitted to compare the information about the cases to the information in the data bases of the State; and
 - (II) shall constitute a certification by the requesting State -
 - (aa) of the amount of support under an order the payment of which is in arrears; and
 - (bb) that the requesting State has complied with all procedural due process requirements applicable to each case;
- (iii) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and
- (iv) the State shall maintain records of -
 - (I) the number of such requests for assistance received by the State;
 - (II) the number of cases for which the State collected support in response to such a request; and
 - (III) the amount of such collected support.

(B) High-volume automated administrative enforcement.-

In this part, the term "high-volume automated administrative enforcement", in interstate cases, means, on request of another State, the identification by a State, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other States, and the seizure of such assets by the State, through levy or other appropriate processes.

(15) Procedures to ensure that persons owing overdue support work or have a plan for payment of such support.-

Procedures under which the State has the authority, in any case in which an individual owes overdue support with respect to a child receiving assistance under a State program funded under part A of this subchapter, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to -

(A) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

(B) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 607(d) of this title) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

(16) Authority to withhold or suspend licenses.-

Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(17) Financial institution data matches.-

(A) In general. -

Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State

- (i) to develop and operate, in coordination with such financial institutions, and the Federal Parent Locator Service in the case of financial institutions doing business in two or more States, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and
- (ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

(B) Reasonable fees. -

The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph

(A)(i), not to exceed the actual costs incurred by such financial institution.

(C) Liability. -

A financial institution shall not be liable under any Federal or State law to any person-

- (i) for any disclosure of information to the State agency under subparagraph (A)(i);
- (ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or
- (iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

(D) Definitions. -

For purposes of this paragraph -

(i) Financial institution. -

The term "financial institution" has the meaning given to such term by section 669A(d)(1) of this title.

(ii) Account. -

The term "account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(18) Enforcement of orders against paternal or maternal grandparents.-

Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A of this subchapter, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child.

(19) Health care coverage.-

Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice. Notwithstanding section 654(20)(B) of this title, the procedures which are required under paragraphs (3), (4), (6), (7), and (15) need not be used or applied in cases where the State determines (using guidelines which are generally available within the State and which take into account the payment record of the noncustodial parent, the availability of other remedies, and other relevant considerations) that such use or application would not carry out the purposes of this part or would be otherwise inappropriate in the circumstances.

(b) Withholding from income of amounts payable as support

The procedures referred to in subsection (a)(1)(A) of this section (relating to the withholding from income of amounts payable as support) must provide for the following:

(1) In the case of each noncustodial parent against whom a support order is or has been issued or modified in the State, and ~~being~~ enforced under the State plan, so much of such parent's income must be withheld, in accordance with the succeeding provisions of this subsection, as is necessary to comply with the order and provide for the payment of any fee to the employer which ~~may~~ be required under paragraph (6)(A), up to the maximum amount permitted under section 1673(b) of title 15. If there are arrearages to be collected, amounts withheld to satisfy such arrearages, when added to the amounts withheld to pay current support and provide for the fee, may not exceed the limit permitted under such section 1673(b), but the State need not withhold up to the maximum amount permitted under such section in order to satisfy arrearages.

(2) Such withholding must be provided without the necessity of any application therefor in the case of a child (whether or not eligible for assistance under a State program funded under part A of this subchapter) with respect to whom services are already being provided under the State plan under this part, and must be provided in accordance with this subsection on the basis of an application for services under the State plan in the case of any other child in whose behalf a support order has been issued or modified in the State. In either case such withholding must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order. [CAPC166](#)

(3) (A) The income of a noncustodial parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order being enforced under this part that is issued or modified on or after the first day of the 25th month beginning after October 13, 1988, on the effective date of the order; except that such income shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement.

(B) The income of a noncustodial parent shall become subject to such withholding, in the case of income not subject to withholding under subparagraph (A), on the date on which the payments which the noncustodial parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of -

- (i) the date as of which the noncustodial parent requests that such withholding begin,
- (ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or
- (iii) such earlier date as the State may select.

(4)

(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies-

- (i) that the withholding has commenced; and
- (ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).

(5) Such withholding must be administered by the State through the State disbursement unit established pursuant to section 654b of this title, in accordance with the requirements of section 654b of this title.

(6)

(A)

(i) The employer of any noncustodial parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such noncustodial parent's income the amount specified by such notice (which may include a fee, established by the State, to be paid to the employer unless waived by such employer) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the State disbursement unit within 7 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall withhold funds as directed in the notice, except that when an employer receives an income withholding order issued by another State, the employer shall apply the income withholding law of the State of the obligor's principal place of employment in determining-

- (I) the employer's fee for processing an income withholding order;
- (II) the maximum amount permitted to be withheld from the obligor's income;

(III) the time periods within which the employer must implement the income withholding order and forward the child support payment;

(IV) the priorities for withholding and allocating income withheld for multiple child support obligees; and

(V) any withholding terms or conditions not specified in the order.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

(ii) The notice given to the employer shall be in a standard format prescribed by the Secretary, and contain only such information as may be necessary for the employer to comply with the withholding order.

(iii) As used in this subparagraph, the term "business day" means a day on which State offices are open for regular business.

(B) Methods must be established by the State to simplify the withholding process for employers to the greatest extent possible, including permitting any employer to combine all withheld amounts into a single payment to each appropriate agency or entity (with the portion thereof which is attributable to each individual employee being separately designated).

(C) The employer must be held liable to the State for any amount which such employer fails to withhold from income due an employee following receipt by such employer of proper notice under subparagraph (A), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph.

(D) Provision must be made for the imposition of a fine against any employer who-

(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

(ii) fails to support from income or to pay such amounts to the State disbursement unit in accordance with this subsection.

(7) Support collection under this subsection must be given priority over any other legal process under State law against the same income.

(8) For purposes of subsection (a) of this section and this subsection, the term "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, payments pursuant to a pension or retirement program, and interest.

(9) The State must extend its withholding system under this subsection so that such system will include withholding from income derived within such State in cases where the applicable support orders were issued in other States, in order to assure that child support owed by noncustodial parents in such State or any other State will be collected without regard to the residence of the child for whom the support is payable or of such child's custodial parent.

(10) Provision must be made for terminating withholding.

(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

(c) Expedited procedures

The procedures specified in this subsection are the following:

(1) Administrative action by State agency

Procedures which give the State agency the authority to take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States to take the following actions:

(A) Genetic testing

To order genetic testing for the purpose of paternity establishment as provided in subsection (a)(5) of this section.

(B) Financial or other information

To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

(C) Response to State agency request

To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

(D) Access to information contained in certain records

To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in the following records (including automated access, in the case of records maintained in automated data bases):

(i) Records of other State and local government agencies, including-

(I) vital statistics (including records of marriage, birth, and divorce);

(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

(III) records concerning real and titled personal property;

(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

(V) employment security records;

(VI) records of agencies administering public assistance programs;

(VII) records of the motor vehicle department; and

(VIII) corrections records.

(ii) Certain records held by private entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought), consisting of-

(I) the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized by subparagraph (B); and

(II) information (including information on assets and liabilities) on such individuals held by financial institutions.

(E) Change in payee

In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A of this subchapter, part E of this subchapter, or section 1396k of this title, or to a requirement to pay through the State disbursement unit established pursuant to section 654b of this title, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

(F) Income withholding

To order income withholding in accordance with subsections (a)(1)(A) and (b) of this section.

(G) Securing assets

In cases in which there is a support arrearage, to secure assets to satisfy any current support obligation and the arrearage by-

(i) intercepting or seizing periodic or lumpsum payments from -

(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

(II) judgments, settlements, and lotteries;

(ii) attaching and seizing assets of the obligor held in financial institutions;

(iii) attaching public and private retirement funds; and

(iv) imposing liens in accordance with subsection (a)(4) of this section and, in appropriate cases, to force sale of property and distribution of proceeds.

(H) Increase monthly payments

For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide. Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

(2) Substantive and procedural rules

The expedited procedures required under subsection (a)(2) of this section shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

(A) Locator information; presumptions concerning notice Procedures under which-

(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer; and

(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court or administrative agency of competent jurisdiction shall deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the State case registry pursuant to clause (i).

(B) Statewide jurisdiction Procedures under which-

(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

(3) Coordination with ERISA

Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(d)) (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 (29 U.S.C. 1144(a) (c)) as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2) except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (29 U.S.C. 1056(d)(3)) (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (29 U.S.C. 1169(a)) (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.

(d) Exemption of States

If a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State, subject to the Secretary's continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.

(e) "Overdue support" defined

For purposes of this section, the term "overdue support" means the amount of a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child which is owed to or on behalf of such child, or for support and maintenance of the noncustodial parent's spouse (or former spouse) with whom the child is living if and to the extent that spousal support (with respect to such spouse or former spouse) would be included for purposes of section 654(4) of this title. At the option of the State, overdue support may include amounts which otherwise meet the definition in the first sentence of this subsection but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors shall apply independently to each procedure specified under this section.

(f) Uniform Interstate Family Support Act

- In order to satisfy section 654(20)(A) of this title, on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.
- (g) Laws voiding fraudulent transfers In order to satisfy section 654(20)(A) of this title, each State must have in effect -
- (1)
 - (A) the Uniform Fraudulent Conveyance Act of 1981;
 - (B) the Uniform Fraudulent Transfer Act of 1984; or
 - (C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to void payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and
 - (2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must-
 - (A) seek to void such transfer; or
 - (B) obtain a settlement in the best interests of the child support creditor.

Title 42 - The Public Health and Welfare

Chapter 7 - Social Security

Subchapter XIX - Grants to states for medical assistance programs

USC 42 1396d. Definitions

- (b) Federal medical assistance percentage; State percentage; Indian health care percentage
- Subject to section 1396u-3(d) of this title, the term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that
- (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum,
 - (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum, and
 - (3) for purposes of this subchapter and subchapter XXI of this chapter, the Federal medical assistance percentage for the District of Columbia shall be 70 percent.
- The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1301(a)(8)(B) of this title.
- Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 1603 of title 25).
- Notwithstanding the first sentence of this subsection, in the case of a State plan that meets the condition described in subsection (u)(1) of this section, with respect to expenditures (other than expenditures under section 1396r-4 of this title) described in subsection (u)(2)(A) of this section or subsection (u)(3) of this section for the State for a fiscal year, and that do not exceed the amount of the State's allotment under section 1397dd of this title (not taking into account reductions under section 1397dd(d)(2) of this title) for the fiscal year reduced by the amount of any payments made under section 1397ee of this title to the State from such allotment for such fiscal year, the Federal medical assistance percentage is equal to the enhanced FMAP described in section 1397ee(b) of this title.

Title 42 - The Public Health and Welfare

Chapter 21 - Civil Rights

Subchapter I - Generally

USC 42 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

USC 42 1985 - Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

USC 42 1986. Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

USC 42 1987. Prosecution of violation of certain laws

The United States attorneys, marshals, and deputy marshals, the United States magistrate judges appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506 to 5516 and 5518 to 5532 of the Revised Statutes, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.

USC 42 1988. Proceedings in vindication of civil rights

(a) Applicability of statutory and common law

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

(b) Attorney's fees

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985 and 1986 of this title, title IX of Public Law 92-318 (20 U.S.C. 1681 et seq.), the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or section 13981 of this title,, (FOOTNOTE 1) the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction.

(FOOTNOTE 1) So in original.

(c) Expert fees

In awarding an attorney's fee under subsection (b) of this section in any action or proceeding to enforce a provision of section 1981 or 1981a of this title, the court, in its discretion, may include expert fees as part of the attorney's fee.

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Responsible Fatherhood Act of 2003'.

SEC. 2. FINDINGS.

Congress makes the following findings:

- (1) Nearly 24,000,000 children in the United States, or 34 percent of all such children, live apart from their biological father.
- (2) Sixty percent of couples who divorce have at least 1 child.
- (3) The number of children living with only a mother increased from just over 5,000,000 in 1960, to 17,000,000 in 1999, and between 1981 and 1991 the percentage of children living with only 1 parent increased from 19 percent to 25 percent.
- (4) Forty percent of children who live in households without a father have not seen their father in at least 1 year and 50 percent of such children have never visited their father's home.
- (5) The most important factor in a child's upbringing is whether the child is brought up in a loving, healthy, supportive environment.
- (6) Children who live without contact with their biological father are, in comparison to children who have such contact
 - (A) 5 times more likely to live in poverty;
 - (B) more likely to bring weapons and drugs into the classroom;
 - (C) twice as likely to commit crime;
 - (D) twice as likely to drop out of school;
 - (E) more likely to commit suicide;
 - (F) more than twice as likely to abuse alcohol or drugs; and
 - (G) more likely to become pregnant as teenagers.
- (7) Violent criminals are overwhelmingly males who grew up without fathers.
- (8) Between 20 and 30 percent of families in poverty are headed by women who have suffered domestic violence during the past year and between 40 and 60 percent of women with children receiving welfare were abused sometime during their life.
- (9) Responsible fatherhood includes active participation in financial support and child care, as well as the formation and maintenance of a positive, healthy, and nonviolent relationship between father and child and a cooperative relationship between parents.
- (10) States should be encouraged to implement programs that provide support for responsible fatherhood, promote marriage, and increase the incidence of marriage, and should not be restricted from implementing such programs.
- (11) Fatherhood programs should promote and provide support services for-
 - (A) loving and healthy relationships between parents and children; and
 - (B) cooperative parenting.
- (12) There is a social need to reconnect children and fathers.
- (13) The promotion of responsible fatherhood and encouragement of married 2parent families should not-
 - (A) denigrate the standing or parenting efforts of single mothers or other caregivers;
 - (B) lessen the protection of children from abusive parents; or
 - (C) compromise the safety or health of the custodial parent;but should increase the chance that children will have two caring parents to help them grow up healthy and secure.
- (14) The promotion of responsible fatherhood must always recognize and promote the values of nonviolence.
- (15) For the future of the United States and the future of our children, Congress, States, and local communities should assist parents to become more actively involved in their children's lives.
- (16) Child support is an important means by which a parent can take financial responsibility for a child and emotional support is an important means by which a parent can take social responsibility for a child.

SEC. 3. RESPONSIBLE FATHERHOOD GRANTS.

Part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is amended by adding at the end the following:

'SEC. 469C. RESPONSIBLE FATHERHOOD GRANTS.

'(a) GRANTS TO STATES TO CONDUCT DEMONSTRATION PROGRAMS-

'(1) AUTHORITY TO AWARD GRANTS-

'(A) IN GENERAL- The Secretary shall award grants to up to 10 eligible States to conduct demonstration programs to carry out the purposes described in paragraph (2).

'(B) ELIGIBLE STATE- For purposes of this subsection, an eligible State is a State that submits to the Secretary the following:

'(i) APPLICATION- An application for a grant under this subsection, at such time, in such manner, and containing such information as the Secretary may require.

'(ii) STATE PLAN- A State plan that includes the following:

'(I) PROJECT DESCRIPTION- A description of the types of projects the State will fund under the grant, including a good faith estimate of the number and characteristics of clients to be served under such projects and how the State intends to achieve at least 2 of the purposes described in paragraph (2).

'(II) COORDINATION EFFORTS- A description of how the State will coordinate and cooperate with State and local entities responsible for carrying out other programs that relate to the purposes intended to be achieved under the demonstration program, including as appropriate, entities responsible for carrying out jobs programs and programs serving children and families.

'(III) RECORDS, REPORTS, AND AUDITS- An agreement to maintain such records, submit such reports, and cooperate with such reviews and audits as the Secretary finds necessary for purposes of oversight of the demonstration program.

`(iii) CERTIFICATIONS- The following certifications from the chief executive officer of the State:

`(I) A certification that the State will use funds provided under the grant to promote at least 2 of the purposes described in paragraph (2).

`(II) A certification that the State will return any unused funds to the Secretary in accordance with the reconciliation process under paragraph (4).

`(III) A certification that the funds provided under the grant will be used for programs and activities that target low income participants and that not less than 50 percent of the participants in each program or activity funded under the grant shall be--

`(aa) parents of a child who is, or within the past 24 months has been, a recipient of assistance or services under a State program funded under this part and is described in section 454(4)(A)(i); or

`(bb) parents, including an expectant parent or a married parent, whose income (after adjustment for court-ordered child support paid or received) does not exceed 150 percent of the poverty line.

`(IV) A certification that programs or activities funded under the grant will be provided with information regarding the prevention of domestic violence and that the State will consult with representatives of State and local domestic violence centers.

`(V) A certification that funds provided to a State under this subsection shall not be used to supplement or supplant other Federal, State, or local funds that are used to support programs or activities that are related to the purposes described in paragraph (2).

`(C) PREFERENCES AND FACTORS OF CONSIDERATION- In awarding grants under this subsection, the Secretary shall take into consideration the following:

`(i) DIVERSITY OF ENTITIES USED TO CONDUCT PROGRAMS AND ACTIVITIES- The Secretary shall, to the extent practicable, achieve a balance among the eligible States awarded grants under this subsection with respect to the size, urban or rural location, and employment of differing or unique methods of the entities that the States intend to use to conduct the programs and activities funded under the grants.

`(ii) PRIORITY FOR CERTAIN STATES- The Secretary shall give priority to awarding grants to eligible States that have--

`(I) demonstrated progress in achieving at least 1 of the purposes described in paragraph (2) through previous State initiatives; or

`(II) demonstrated need with respect to reducing the incidence of out-of-wedlock births or absent fathers in the State.

`(2) PURPOSES- The purposes described in this paragraph are the following:

`(A) PROMOTING RESPONSIBLE FATHERHOOD THROUGH MARRIAGE PROMOTION- To promote marriage or sustain marriage through such activities as counseling, mentoring, disseminating information about the benefits of marriage and parent involvement for children, enhancing relationship skills, education regarding how to control aggressive behavior, disseminating information on the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, marital inventories, skills-based marriage education, financial planning seminars, including improving a family's ability to effectively manage family business affairs by means such as education, counseling, or mentoring on matters related to family finances, including household management, budgeting, banking, and handling of financial transactions and home maintenance, and divorce education and reduction programs, including mediation and counseling.

`(B) PROMOTING RESPONSIBLE FATHERHOOD THROUGH PARENTING PROMOTION- To promote responsible parenting through such activities as counseling, mentoring, and mediation, disseminating information about good parenting practices, skills-based parenting education, encouraging child support payments, and other methods.

`(C) PROMOTING RESPONSIBLE FATHERHOOD THROUGH FOSTERING ECONOMIC STABILITY OF FATHERS- To foster economic stability by helping fathers improve their economic status by providing such activities as work first services, job search, job training, subsidized employment, job retention, job enhancement, and encouraging education, including career-advancing education, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods.

`(3) RESTRICTION ON USE OF FUNDS- No funds provided under this subsection may be used for costs attributable to court proceedings regarding matters of child visitation or custody, or for legislative advocacy.

`(4) RECONCILIATION PROCESS-

`(A) 3-YEAR AVAILABILITY OF AMOUNTS ALLOTTED- Each eligible State that receives a grant under this subsection for a fiscal year shall return to the Secretary any unused portion of the grant for such fiscal year not later than the last day of the second succeeding fiscal year, together with any earnings on such unused portion.

`(B) PROCEDURE FOR REDISTRIBUTION- The Secretary shall establish an appropriate procedure for redistributing to eligible entities that have expended the entire amount of a grant made under this subsection for a fiscal year any amount that is returned to the Secretary by eligible States under subparagraph (A).

`(5) AMOUNT OF GRANTS-

`(A) IN GENERAL- Subject to subparagraph (B), the amount of each grant awarded under this subsection shall be an amount sufficient to implement the State plan submitted under paragraph (1)(B)(ii).

`(B) MINIMUM AMOUNTS- No eligible State shall--

`(i) in the case of the District of Columbia or a State other than the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, receive a grant for a fiscal year in an amount that is less than \$1,000,000; and

`(ii) in the case of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, receive a grant for a fiscal year in an amount that is less than \$500,000.

`(6) DEFINITION OF STATE- In this subsection the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

`(7) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated \$20,000,000 for each of fiscal years 2004 through 2008 for purposes of making grants to States under this subsection.

`(b) GRANTS TO ELIGIBLE ENTITIES TO CONDUCT DEMONSTRATION PROGRAMS-

(1) AUTHORITY TO AWARD GRANTS-

(A) IN GENERAL- The Secretary shall award grants to eligible entities to conduct demonstration programs to carry out the purposes described in (a)(2).

(B) ELIGIBLE ENTITY- For purposes of this subsection, an eligible entity is a local government, local public agency, community based or nonprofit organization, or private entity, including any charitable or faithbased organization that submits to the Secretary the following:

(i) APPLICATION- An application for a grant under this subsection, at such time, in such manner, and containing such information as the Secretary may require.

(ii) PROJECT DESCRIPTION- A description of the programs or activities the entity intends to carry out with funds provided under the grant, including a good faith estimate of the number and characteristics of clients to be served under such programs or activities and how the entity intends to achieve at least 2 of the purposes described in subsection (a)(2).

(iii) COORDINATION EFFORTS- A description of how the entity will coordinate and cooperate with State and local entities responsible for carrying out other programs that relate to the purposes intended to be achieved under the demonstration program, including as appropriate, entities responsible for carrying out jobs programs and programs serving children and families.

(iv) RECORDS, REPORTS, AND AUDITS- An agreement to maintain such records, submit such reports, and cooperate with such reviews and audits as the Secretary finds necessary for purposes of oversight of the demonstration program.

(v) CERTIFICATIONS- The following certifications:

(I) A certification that the entity will use funds provided under the grant to promote at least 2 of the purposes described in subsection (a)(2).

(II) A certification that the entity will return any unused funds to the Secretary in accordance with the reconciliation process under paragraph (3).

(III) A certification that the funds provided under the grant will be used for programs and activities that target low-income participants and that not less than 50 percent of the participants in each program or activity funded under the grant shall be

(aa) parents of a child who is, or within the past 24 months has been, a recipient of assistance or services under a State program funded under this part and is described in section 454(4)(A)(i); or

(bb) parents, including an expectant parent or a married parent, whose income (after adjustment for court-ordered child support paid or received) does not exceed 150 percent of the poverty line.

(IV) A certification that the entity will consult with representatives of State and local domestic violence centers.

(V) A certification that funds provided to an entity under this subsection shall not be used to supplement or supplant other Federal, State, or local funds provided to the entity that are used to support programs or activities that are related to the purposes described in subsection (a)(2).

(C) PREFERENCES AND FACTORS OF CONSIDERATION- In awarding grants under this subsection, the Secretary shall, to the extent practicable, achieve a balance among the eligible entities awarded grants under this subsection with respect to the size, urban or rural location, and employment of differing or unique methods of the entities.

(2) RESTRICTION ON USE OF FUNDS- No funds provided under this subsection may be used for costs attributable to court proceedings regarding matters of child visitation or custody, or for legislative advocacy.

(3) RECONCILIATION PROCESS-

(A) 3-YEAR AVAILABILITY OF AMOUNTS ALLOTTED- Each eligible entity that receives a grant under this subsection for a fiscal year shall return to the Secretary any unused portion of the grant for such fiscal year not later than the last day of the second succeeding fiscal year, together with any earnings on such unused portion.

(B) PROCEDURE FOR REDISTRIBUTION- The Secretary shall establish an appropriate procedure for redistributing to eligible entities that have expended the entire amount of a grant made under this subsection for a fiscal year any amount that is returned to the Secretary by eligible entities under subparagraph (A).

(4) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated \$30,000,000 for each of fiscal years 2004 through 2008 for purposes of making grants to eligible entities under this subsection.

SEC. 4. NATIONAL CLEARINGHOUSE FOR RESPONSIBLE FATHERHOOD PROGRAMS.

Section 469C of the Social Security Act, as added by section 3, is amended by adding at the end the following:

(c) MEDIA CAMPAIGN NATIONAL CLEARINGHOUSE FOR RESPONSIBLE FATHERHOOD-

(1) MEDIA CAMPAIGN AND NATIONAL CLEARINGHOUSE-

(A) IN GENERAL- From any funds appropriated under paragraph (3), the Secretary shall contract with a nationally recognized, nonprofit fatherhood promotion organization described in paragraph (2) to-

(i) develop, promote, and distribute to interested States, local governments, public agencies, and private entities a media campaign that encourages the appropriate involvement of both parents in the life of any child of the parents, with a priority for programs that specifically address the issue of responsible fatherhood; and

(ii) develop a national clearinghouse to assist States and communities in efforts to promote and support marriage and responsible fatherhood by collecting, evaluating, and making available (through the Internet and by other means) to other States information regarding the media campaigns established under subsection (d).