

CRS Report for Congress

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Major Child Support Proposals Considered in the 106th Congress

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Summary

During the period FY1978-FY1999, child support payments collected by the Child Support Enforcement (CSE) agencies increased from \$1 billion to \$15.8 billion. Even so, the program still collects only 17% of child support obligations for which it has responsibility and collects payments for only 37% of its caseload. The Clinton Administration's FY2001 budget included several new initiatives intended to collect more child support from noncustodial parents that can afford to pay, streamline program distribution rules so that more child support goes to custodial parents, and establishes a fatherhood grant program to help noncustodial parents to get the support and skills they need to find and retain employment and to become more involved in the lives of their children. H.R. 4678, the Child Support Distribution Act of 2000, included many of these provisions. H.R. 4678, as amended, was passed by the House but not by the Senate. Although the fatherhood grant program was not passed, the Consolidated Appropriations Act for FY2001 (P.L. 106-554) provides \$500,000 for each of two specified fatherhood organizations and P.L. 106-553 provides another \$3 million for one of the aforementioned fatherhood organizations. This report describes some of the child support provisions that were left pending by the 106th Congress; it will not be updated.

Background

The Child Support Enforcement (CSE) program, Part D of Title IV of the Social Security Act, was enacted in January 1975 (P.L. 93-647). The CSE program is administered by the Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS), and funded by general revenues. All 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands operate CSE programs and are entitled to federal matching funds.

The CSE program provides six services on behalf of both welfare and nonwelfare children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of support orders, (5) collection of support

payments, and (6) distribution of support payments. Moreover, since 1984, CSE agencies have been required to petition for medical support as part of most child support orders.

During the period FY1978-FY1999, child support payments collected by the CSE agencies increased from \$1 billion to \$15.8 billion. Moreover, the program has made significant improvements in other program components as well, such as the number of parents located, paternities established, and child support orders established. Advocates of the CSE program say that this dramatic program performance is aside from the indirect and intangible benefits of the program, such as increased personal responsibility and welfare cost-avoidance. Critics of the CSE program contend that even with an unprecedented array of “big brother” enforcement tools such as licence (professional, driver’s, recreational) and passport revocation, seizure of banking accounts, retirement funds, and lottery winnings, and automatic income withholding from pay checks, the program still collects only one 17% of child support obligations for which it has responsibility and collects payments for only 37% of its caseload.

Some reasons for the low rate of child support collections are (1) the low rate of paternity establishment; in FY1998 paternity was established for only 41% of the 3.6 million children without legally identified fathers (legally identifying the father is a prerequisite for obtaining a child support order) and (2) many fathers cannot afford to pay. Some Members argue that a significant percentage of noncustodial parents are “dead broke” rather than “deadbeats,” and have urged the adoption of fatherhood initiatives to help noncustodial fathers obtain employment and the necessary information and encouragement to become responsible parents.

Child Support Proposals Considered (not enacted) in the 106th Congress

The Clinton Administration’s FY2001 budget included several new initiatives intended to collect more child support from noncustodial parents that can afford to pay, streamline program distribution rules so that more child support goes to custodial parents, and help noncustodial parents who are unable to pay child support get the support and skills they need to find work and retain employment. It also included other CSE programmatic changes. H.R. 4678, the Child Support Distribution Act of 2000, which was approved by the House Ways and Means Committee on July 19, 2000 and reported on July 26, 2000 (H.Rept. 106-793, Part 1), contains some of the provisions that were in the Clinton Administration’s FY2001 budget proposal. On September 7, 2000, the House passed H.R. 4678, which requires states to distribute more child support to ex-welfare families (with federal funding) and permits states to give child support collections to TANF families without having to repay the federal government its share of the money. In addition, H.R. 4678 simplifies child support assignment and distribution rules, establishes a fatherhood grant program, and makes other changes.

Optional Passthrough and Disregard of Child Support Payments. Under old law, the first \$50 of current monthly child support payments collected on behalf of a family receiving Aid to Families with Dependent Children (AFDC) was given to the family and disregarded as income to the family so that it did not affect the family’s AFDC eligibility or benefit status. The 1996 welfare reform law (P.L. 104-193) eliminated the \$50 passthrough payment. Under current law, when child support is collected for families receiving Temporary Assistance for Needy Families (TANF) assistance, the money is

divided between the state and federal governments based on the state's Medicaid matching rate. The federal government keeps its share. P.L. 104-193 gave states the choice to decide how much, if any, of the state share (some, all, none) of child support payments collected on behalf of TANF families to send to the family. States also decide whether to treat child support payments as income to the family. About half of the states have chosen to keep their entire share. The other half pass through a portion of the collection to the family, usually \$50 per month, and disregard that amount in calculating the family's monthly TANF benefit.

As noted above, under current law the states bear the entire cost of passing through and disregarding child support to families on TANF. The Clinton Administration and several Members of Congress maintain that if child support is passed through to families while they are on welfare, the family may be able to leave welfare sooner because they can more accurately assess how much child support they would have to supplement their earnings. H.R. 4678, as amended and reported on July 27, 2000 by the House Rules Committee (H.Rept. 106-798), includes provisions that would (1) allow states to pay child support arrearage payments collected on behalf of families who are no longer on welfare to the families without paying the federal government its share of the money, and (2) allow states to pay child support collections to TANF families without being required to pay the federal government its share of the money, provided the state does not count the child support income in determining the family's TANF benefit. For mothers on welfare, the federal government would share in the cost of amounts passed through and disregarded to the family up to \$400 per month for families with less than two children and up to \$600 per month for families with two or more children. The Rules Committee amendment also would permit states to discontinue child support assignments that were in effect on September 30, 1997 that were assigned to the state as a condition of TANF receipt. Preliminary cost estimates by the Congressional Budget Office (CBO) indicated that these provisions would cost \$541 million over 5 years.

Simplify Child Support Assignment and Distribution Rules. To qualify for TANF benefits, TANF applicants and recipients must assign their child support rights to the state for periods before and during the family's TANF receipt. P.L. 104-193 required states to pay a higher fraction of child support collections on arrearages to families that have left welfare by making these payments to families first (before the state and the federal government are reimbursed for TANF assistance to the family). However, in cases where the child support arrearage is collected via the federal income tax refund offset program, the states and federal government keep the support collection. In addition, the state keeps (and divides with the federal government) child support arrearages that accrued before the family went on TANF if they are collected while the family is receiving TANF benefits. Further, the states retains (and shares with the federal government) arrearages that accrue for child support obligations that were assigned to the state before October 1997. These factors have resulted in making an already complicated set of rules for determining who actually gets the child support arrearage payments more complex. Although much of the complexity of the distribution rules will end when the rules are completely implemented on October 1, 2000, many policymakers contend that Congress needs to simplify the distribution system which currently requires the tracking of six categories of arrearage payments in order to properly pay custodial parents.

H.R. 4678 would limit the child support assignment to the period in which the family receives TANF benefits. In addition, H.R. 4678 includes a provision that would allow

states to adopt simpler rules for distributing child support collections. Under the proposed rule, collections received on behalf of families receiving TANF benefits would be retained by the federal and state governments as reimbursement for TANF assistance (as under current law) and child support collected on behalf of families who are no longer on TANF would be paid to the families first. The policy would have an effective date of October 1, 2001. Preliminary CBO estimates indicated that increased collections to families would amount to \$905 million over 5 years. CBO estimates that the net federal *cost* of the provision would be about \$1 billion over the 5-year period from FY2002-FY2006.

Review and Adjustment of Child Support Orders. P.L. 104-193 requires states to have procedures under which they must review a child support order, and adjust it if appropriate, every 3 years (or more often at state option) if either parent or the state requests a review in welfare cases or if either parent requests a review in nonwelfare cases. In other words, the review is mandatory once every 3 years only if one of the specified parties requests the review.

H.R. 4678 would require states to review and adjust child support orders for TANF families once every 3 years. In addition, states would be required to review the child support orders of families leaving TANF. CBO indicates that such a mandatory review would increase collections to families and also increase the number of children with private health insurance, thereby reducing the reliance of welfare families on public assistance programs. CBO estimates that the net federal *savings* from reviewing support orders of persons on TANF would amount to \$58 million over 5 years (FY2002-FY2006) and that the net federal *cost* of reviewing support orders of families that leave TANF would amount to \$50 million over 5 years.

Reduction of Threshold for Passport Denial. P.L. 104-193 also authorized the Secretary of State to deny, revoke, or restrict passports of debtor parents whose child support arrearages exceed \$5,000. According to HHS, the passport denial program has collected more than \$2.25 million in lump sum child support payments and is currently denying 30 to 40 passports daily to delinquent noncustodial parents.

H.R. 4678 includes a proposal that would authorize the denial, revocation, or restriction of passports to noncustodial parents whose child support arrearages exceed \$2,500, rather than \$5,000 as under current law. CBO estimates that this proposal would increase child support collections to families by about \$13 million annually and would *save* the federal government \$9 million over 5 years (FY2002-FY2006).

Reduce Federal Matching Rate for Paternity Establishment. The federal government currently reimburses each state 66% of the cost of administering its CSE program. It also refunds states 90% of the laboratory costs of establishing paternity. The federal government's funding is "open-ended" in that it pays its percentage of expenditures by matching the amounts spent by state and local governments with no upper limit or ceiling.

The FY2001 budget included a proposal that would eliminate the enhanced match for paternity establishment. Under the proposal, the federal matching rate for paternity testing would be reduced to 66%, the lower overall child support administrative matching rate. The Clinton Administration estimates that the *savings* from this proposal would amount to \$41 million over the 5-year period from FY2001-FY2005.

Demonstrations Involving Establishment and Enforcement of Child Support Obligations by Public Non-IV-D Agencies. The CSE program is authorized by title IV-D of the Social Security Act. Federal law requires every state that operates a TANF program to operate a CSE program. States must operate their CSE programs in accordance with federal guidelines. Federal funding is available for the CSE program at a 66% matching rate. Other public agencies in the state such as a county government or a clerk of the court may perform some child support enforcement functions without receiving federal funding or having to adhere to the federal child support enforcement rules. Generally, these other public agencies do not have full access to the same enforcement tools or information databases that are available to the CSE agency.

H.R. 4678 would authorize the HHS Secretary to approve up to 10 states to participate in a demonstration program. The demonstrations would determine the extent to which public child support enforcement entities other than the CSE agency can contribute effectively to the establishment and enforcement of child support obligations on behalf of custodial parents who have not been helped by the regular CSE program and seek aid from an alternative entity. CBO estimates that the net federal *cost* of the demonstrations would be \$25 million over the 5-year period from FY2002-FY2006.

Use of Information in the New Hires Database. The 1996 welfare reform law (P.L. 104-193) required all employers in the nation to report basic information on every newly-hired employee to the state. States were in turn required to collect all this information in the State Directory of New Hires, to use this information to locate noncustodial parents who owe child support and to send a wage withholding order to their employer, and to report (within 3 business days) all information in their Directory of New Hires to the federal government. Information in the State Directory of New Hires is used by State Employment Security Agencies (the agency that operates the state unemployment compensation program) to match against unemployment compensation records to determine whether people drawing unemployment compensation benefits are actually working. However, many states have residents who are drawing unemployment benefits from a previous job in their state but then obtain work in an adjoining state. Because states have access to the New Hire data only in their own state, and not to the National Directory of New Hires, states are not able to detect these cases.

H.R. 4678 would authorize state Employment Security Agencies to gain access to information in the National Directory of New Hires. CBO estimates that the net federal *savings* resulting from this provision would amount to \$76 million from FY2002-FY2006.

Use of Tax Refund Offset Program to Collect Past-Due Support on Behalf of Children Who Are No Longer Minors. Under the federal income tax refund offset program, the Internal Revenue Service, operating on a request from a state filed through the Secretary of HHS, intercepts tax returns and deducts the amount of certified child support arrearages. The money is then sent to the state for distribution. This program is available to TANF recipients in cases in which the noncustodial parent owes at least \$150 in past-due child support and non-welfare recipients in cases in which the noncustodial parent owes at least \$500 in arrearage payments. With respect to TANF cases, the federal income tax refund offset program can be used to collect arrearages on behalf of children who are no longer minors. H.R. 4678 would allow the federal income tax refund offset program to be used to collect arrearages on behalf of non-welfare children who are no longer minors.

Fathers Work/Families Win. P.L. 106-113, the Consolidated Appropriations Act for FY2000, amended the welfare-to-work program (which is intended to help “hard-to-serve” welfare recipients with the transition to work), but did not provide for additional funding for FY2000. The new amendments, which took effect on January 1, 2000, allow welfare-to-work funds to be spent on noncustodial parents who are unemployed, underemployed, or who are having difficulty paying their child support obligations. The following are some of the activities that may receive welfare-to-work funding: community service or work experience programs, job creation through wage subsidies on-the-job training, job readiness, placement, and post-employment services, and job retention and support services. The welfare-to-work program is administered by DOL. According to the Clinton Administration, the welfare-to-work program has provided over \$350 million in funding on responsible fatherhood initiatives. (See CRS Report RS20207, *Welfare Reform: Competitive Grants in the Welfare-to-Work Grant Program.*)

The proposed “Fathers Work” grant program, which would be administered by the Department of Labor, is designed to help low-income noncustodial parents who are not living with their children carry out their financial and emotional responsibilities to their children. The Clinton Administration estimates that these grants would help about 40,000 low-income noncustodial parents (primarily fathers) work, pay child support, and reconnect with their children; and would cost \$125 million in FY2001.

The proposed “Families Win” grant program, which would be administered by the Department of Labor, is designed to help “hard-pressed” working families obtain the supports and skills they need to get a job and succeed in the job and avoid TANF assistance. These funds are intended to leverage existing resources to help families retain jobs and upgrade skills, and get connected to critical work supports, such as child care, child support, health care, food stamps, earned income tax credit, housing, and transportation. The Clinton Administration estimates that these grants would serve about 40,000 low-income parents, including former welfare recipients, and persons with disabilities work, pay child support, and reconnect with their children. The Clinton Administration estimates that the program would cost \$130 million in FY2001; of this amount, \$10 million would be for grants to Native American workforce agencies. Neither the House or Senate FY2001 appropriations bill (H.R. 4577) for the Departments of Labor, Health and Human Services, and Education, and Related Agencies include funding for the Fathers Work/Families Win proposal.

Fatherhood Grant Programs. H.R. 4678 and H.R. 3073 (passed by the House on November 10, 1999) would establish a program to make grants to public or private entities for projects designed to promote marriage, promote successful parenting and the involvement of fathers in the lives of their children, and help fathers improve their economic status by providing them with job-related services. The program would be appropriated \$140 million over a 4-year period. (For more information on fatherhood legislation, see CRS Report RS20385.) CBO estimates that the net federal cost of the fatherhood grants would amount to \$161 million over 5 years (FY2002-FY2006).

Although the House and Senate did not reach agreement on H.R. 4678, a bill that includes a fatherhood grants program, the Consolidated Appropriations Act for FY2001 (P.L. 106-554) provides \$500,000 for each of two named fatherhood organizations – The National Fatherhood Initiative and the Institute for Responsible Fatherhood and Family Revitalization and P.L. 106-553 provides another \$3.0 million for the National Fatherhood Initiative.

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