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HOUSE OF REPRESENTATIVES
REPORT
98-925

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

AUGUST 1, 1984.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 4325]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4325) to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Child Support Enforcement Amendments of 1984".

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PURPOSE OF THE PROGRAM

SEC. 2. Section 451 of the Social Security Act is amended by striking out "and obtaining child and spousal support," and inserting in lieu thereof "obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested,".

IMPROVED CHILD SUPPORT ENFORCEMENT THROUGH REQUIRED STATE LAWS AND PROCEDURES

SEC. 3. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (19) the following new paragraph:

"(20) provide, to the extent required by section 466, 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.".

(b) Part D of title IV of such Act is further amended by adding at the end thereof the following new section:

"REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

"SEC. 466. (a) In order to satisfy section 454(20)(A), 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) Procedures described in subsection (b) for the withholding from income of amounts payable as support.

"(2) Procedures under which expedited processes (determined in accordance with regulations of the Secretary) are in effect under the State judicial system or under State administrative processes (A) for obtaining and enforcing support orders, and (B) at the option of the State, for establishing paternity. 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 within the political subdivision (in accordance with the general rule for exemptions under subsection (d)).

"(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 an absent parent will be reduced, after notice has been sent to that absent 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 absent parent;

"(B) the amount by which such refund is reduced shall be distributed in accordance with section 457(b)(4) or (d)(3) in the case of overdue support assigned to a State pursuant to section 402(a)(26) or 471(a)(17), or, in the case of overdue support which a State has agreed to collect under section 454(6), 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 absent 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) Procedures under which liens are imposed against real and personal property for amounts of overdue support owed by an absent parent who resides or owns property in the State.

"(5) Procedures which permit the establishment of the paternity of any child at any time prior to such child's eighteenth birthday.

"(6) Procedures which require that an absent parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such absent 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) Procedures by which information regarding the amount of overdue support owed by an absent parent residing in the State will be made available to any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) upon the request of such agency; except that (A) if the amount of the overdue support involved in any case is less

than $1,000, information regarding such amount shall be made available only at the option of the State, (B) any information with respect to an absent parent shall be made available under such procedures only after notice has been sent to such absent parent of the proposed action, and such absent parent has been given a reasonable opportunity to contest the accuracy of such information (and after full compliance with all procedural due process requirements of the State), and (C) a fee for furnishing such information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting agency by the State.

"(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from wages, 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.

Notwithstanding section 454(20)(B), the procedures which are required under paragraphs (3), (4), (6), and (7) 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 absent 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) The procedures referred to in subsection (a)(1) (relating to the withholding from income of amounts payable as support) must provide for the following:

"(1) In the case of each absent parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of such parent's wages (as defined by the State for purposes of this section) 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 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). 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 303(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 aid under part A) 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.

"(3) An absent parent shall become subject to such withholding, and the advance notice required under paragraph (4) shall be given, on the earliest of—

"(A) the date on which the payments which the absent parent has failed to make under such order are at least equal to the support payable for one month,

"(B) the date as of which the absent parent requests that such withholding begin, or

"(C) 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 (subject to subparagraph (B)) the State must send advance notice to each absent parent to whom paragraph (1) applies regarding the proposed withholding and the procedures such absent parent should follow if he or she desires to contest such withholding on the grounds that withholding (including the amount to be withheld) is not proper in the case involved because of mistakes of fact. If the absent parent contests such withholding on those grounds, the State shall determine whether such withholding will actually occur, shall (within no more than 45 days after the provision of such advance notice) inform such parent of whether or not withholding will occur and (if so) of the date on which it is to begin, and shall furnish such parent with the information contained in any notice given to the employer under paragraph (6)(A) with respect to such withholding.

"(B) The requirement of advance notice set forth in the first sentence of subparagraph (A) shall not apply in the case of any State which has a system of income withholding for child support purposes in effect on the date of the enactment of this section if such system provides on that date, and continues to provide, such procedures as may be necessary to meet the procedural due process requirements of State law.

"(5) Such withholding must be administered by a public agency designated by the State, and the amounts withheld must be expeditiously distributed by the State or such agency in accordance with section 457 under procedures (specified by the State) adequate to document payments of support and to track and monitor such payments, except that the State may establish or permit the establishment of alternative procedures for the collection and distribution of such amounts (under the supervision of such public agency) otherwise than through such public agency so long as the entity making such collection and distribution is publicly accountable for its actions taken in carrying out such procedures, and so long as such procedures will assure prompt distribution, provide for the keeping of adequate records to document payments of support, and permit the tracking and monitoring of such payments.

"(6)(A)(i) The employer of any absent parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such absent parent's wages 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 appropriate agency (or other entity authorized to collect the amounts withheld under the alternative procedures described in paragraph (5)) for distribution in accordance with section 457.

"(ii) The notice given to the employer shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(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 wages 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 discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

"(7) Support collection under this subsection must be given priority over any other legal process under State law against the same wages.

"(8) The State may take such actions as may be necessary to extend its system of withholding under this subsection so that such system will include withholding from forms of income other than wages, in order to assure that child support owed by absent parents in the State will be collected without regard to the types of such absent parents' income or the nature of their income-producing activities.

"(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 absent 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.

"(c) Any State may at its option, under its plan approved under section 454, establish procedures under which support payments under this part will be made through the State agency or other entity which administers the State's income withholding system in any case where either the absent parent or the custodial parent requests it, even though no arrearages in child support payments are

involved and no income withholding procedures have been instituted; but in any such case an annual fee for handling and processing such payments, in an amount not exceeding the actual costs incurred by the State in connection therewith or $25, whichever is less, shall be imposed on the requesting parent by the State.

"(d) 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) 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 absent 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 paragraph (4) or (6) of section 454. 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.".

(c) Section 454(6)(B) of such Act is amended to read as follows: "(B) an application fee for furnishing such services shall be imposed, which 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), and".

(d) Section 454 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (20) the following new paragraph:

"(21)(A) at the option of the State, impose a late payment fee on all overdue support (as defined in section 466(e)) 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 absent 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.".

(e) Section 454(5) of such Act is amended by inserting after "directly to the family" the following: ", and the individual will be notified at least annually of the amount of the support payments collected;".

(f) Section 454 of such Act is further amended by adding at the end thereof (after and below paragraph (21) (as added by subsection (d) of this section)) the following new sentence:
"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).".

(g)(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall become effective on October 1, 1985.

(2) Section 454(21) of the Social Security Act (as added by subsection (d) of this section), and section 466(e) of such Act (as added by subsection (b) of this section), shall be effective with respect to support owed for any month beginning after the date of the enactment of this Act.

(3) In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this section, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the beginning of the fourth month beginning after the end of the first session of the State legislature which ends on or after October 1, 1985. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

FEDERAL MATCHING OF ADMINISTRATIVE COSTS

SEC. 4. (a) Section 455(a) of the Social Security Act is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out ", beginning with the quarter commencing July 1, 1975,";

(3) by striking out paragraph (2) and redesignating paragraphs (1) and (3) as subparagraphs (A) and (B), respectively;

(4) by amending paragraph (1)(A) as so redesignated to read as follows:

"(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and";

(5) in paragraph (1)(B) as so redesignated, by striking out "specified in clause (1) or (2)" and inserting in lieu thereof "specified in subparagraph (A)"; and

(6) by adding at the end thereof the following new paragraph:

"(2) The percent applicable to quarters in a fiscal year for purposes of paragraph (1)(A) is—

"(A) 70 percent for fiscal years 1984, 1985, 1986, and 1987,

"(B) 68 percent for fiscal years 1988 and 1989, and

"(C) 66 percent for fiscal year 1990 and each fiscal year thereafter.".

(b) Subsections (d)(1)(B), (d)(2)(A), (d)(2)(B), and (e) of section 452 of such Act are each amended by striking out "455(a)(3)" and inserting in lieu thereof "455(a)(1)(B)".

(c) The amendments made by this section shall apply to fiscal years after fiscal year 1983.

FEDERAL INCENTIVE PAYMENTS

SEC. 5. (a) Section 458 of the Social Security Act is amended to read as follows:

"INCENTIVE PAYMENTS TO STATES

"SEC. 458. (a) 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 aid to families with dependent children under a State plan approved under part A of this title, 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 absent parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b).

"(b)(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 402(a)(26) or section 471(a)(17) (with such total amount for any fiscal year being hereafter referred to in this section as the State's 'AFDC 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-AFDC collections' for that year).

"(2) If subsection (c) applies with respect to a State's AFDC collections or non-AFDC 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-AFDC collections under paragraph (1)(B) (after adjustment under subsection (c) 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 AFDC collections under paragraph (1)(A) (after adjustment under subsection (c) 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 455(a)(1)(A) 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 455(a)(1)(A) 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) If the total amount of a State's AFDC collections or non-AFDC 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 454 for which payment may be made under section 455 (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's 'combined AFDC/non-AFDC 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) (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 AFDC collections or non-AFDC 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 AFDC/non-AFDC administrative costs for that year.

"(d) In computing incentive payments under this section, support which is collected by one State on behalf of individuals residing in another State shall be treated as having been collected in full by each such State.

"(e) 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.".

(b) Section 454 of such Act (as amended by subsections (a), (d), and (f) of section 3 of this Act) is amended—

(1) by striking out "and" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (21) the following new paragraph:

"(22) in order for the State to be eligible to receive any incentive payments under section 458, 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.".

(c)(1) The amendments made by the preceding provisions of this section shall become effective on October 1, 1985.

(2)(A) Effective until September 30, 1985, section 458(a) of the Social Security Act is amended by striking out "distributed as provided in section 457 to reduce or repay assistance payments" and inserting in lieu thereof "distributed as provided in paragraphs (1), (2), and (4)(A) of section 457(b)".

(B) The reference to provisions of section 457(b) of the Social Security Act in the amendment made by subparagraph (A) of this paragraph is a reference to such provisions as in effect after the effective date of section 2640(b) of the Deficit Reduction Act of 1984.

90-PERCENT MATCHING FOR AUTOMATED MANAGEMENT SYSTEMS USED IN INCOME WITHHOLDING AND OTHER REQUIRED PROCEDURES

SEC. 6. (a) Section 454(16) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof the following: "(D) to facilitate the development and improvement of the income withholding and other procedures required under section 466(a) through the monitoring of support payments, the maintenance of accurate records regarding the payment of support, and the prompt provision of notice to appropriate officials with respect to any arrearages in support payments which may occur, and (E)".

(b) Section 455(a)(1)(B) of such Act (as redesignated by section 4(a) of this Act) is amended—

(1) by inserting after "automatic data processing and information retrieval system" the following: "(including in such sums the full cost of the hardware components of such system)"; and

(2) by inserting before the semicolon at the end thereof the following: ", or meets such requirements without regard to clause (D) thereof".

(c) The amendments made by this section shall apply with respect to quarters beginning on or after October 1, 1984.

CONTINUATION OF SUPPORT ENFORCEMENT FOR AFDC RECIPIENTS WHOSE BENEFITS ARE BEING TERMINATED

SEC. 7. (a) Section 457(c) of the Social Security Act is amended—

(1) by striking out "may" in the matter preceding paragraph (1) and inserting in lieu thereof "shall"; and

(2) by striking out "the net amount of" in paragraph (2), and by striking out "to the family" and all that follows in such paragraph and inserting in lieu thereof "to the family (without requiring any formal reapplication and without the imposition of any application fee) on the same basis as in the case of other individuals who are not receiving assistance under part A of this title,".

(b) The amendments made by subsection (a) shall become effective October 1, 1984.

SPECIAL PROJECT GRANTS TO PROMOTE IMPROVEMENTS IN INTERSTATE ENFORCEMENT

SEC. 8. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) In order to encourage and promote the development and use of more effective methods of enforcing support obligations under this part in cases where either the children on whose behalf the support is sought or their absent parents do not reside in the State where such cases are filed, the Secretary is authorized to make grants, in such amounts and on such terms and conditions as the Secretary determines to be appropriate, to States which propose to undertake new or innovative methods of support collection in such cases and which will use the proceeds of such grants to carry out special projects designed to demonstrate and test such methods.

"(2) A grant under this subsection shall be made only upon a finding by the Secretary that the project involved is likely to be of significant assistance in carrying out the purpose of this subsection; and with respect to such project the Secretary may waive any of the requirements of this part which would otherwise be applicable, to such extent and for such period as the Secretary determines is necessary or desirable in order to enable the State to carry out the project.

"(3) At the time of its application for a grant under this subsection the State shall submit to the Secretary a statement describing in reasonable detail the project for which the proceeds of the grant are to be used, and the State shall from time to time thereafter submit to the Secretary such reports with respect to the project as the Secretary may specify.

"(4) Amounts expended by a State in carrying out a special project assisted under this section shall be considered, for purposes of section 458(b) (as amended by section 5(a) of the Child Support Enforcement Amendments of 1984), to have been expended for the operation of the State's plan approved under section 454.

"(5) There is authorized to be appropriated the sum of $7,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, and $15,000,000 for each fiscal year thereafter, to be used by the Secretary in making grants under this subsection.".

PERIODIC REVIEW OF EFFECTIVENESS OF STATE PROGRAMS; MODIFICATION OF PENALTY

SEC. 9. (a)(1) Section 452(a)(4) of the Social Security Act is amended by striking out "not less often than annually" and inserting in lieu thereof "not less often than once every three years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2))".

(2) Section 402(a)(27) of such Act is amended by striking out "operate a child support program in conformity with such plan" and inserting in lieu thereof "operates a child support program in substantial compliance with such plan".

(b) Section 403(h) of such Act is amended to read as follows:

"(h)(1) Notwithstanding any other provision of this Act, if a State's program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter beginning after September 30, 1983, and the Secretary determines that the State's program is not complying substantially with such requirements at the time such finding is made, the amounts otherwise payable to the State under this part for such quarter and each subsequent quarter, prior to the first quarter throughout which the State program is found to be in substantial compliance with such requirements, shall be reduced (subject to paragraph (2)) by—

"(A) not less than one nor more than two percent, or

"(B) not less than two nor more than three percent, if the finding is the second consecutive such finding made as a result of such a review, or

"(C) not less than three nor more than five percent, if the finding is the third or a subsequent consecutive such finding made as a result of such a review.

"(2)(A) The reductions required under paragraph (1) shall be suspended for any quarter if—

"(i) the State submits a corrective action plan, within a period prescribed by the Secretary following notice of the finding under paragraph (1), which contains steps necessary to achieve substantial compliance within a time period which the Secretary finds to be appropriate;

"(ii) the Secretary approves such corrective action plan (and any amendments thereto) as being sufficient to achieve substantial compliance; and

"(iii) the Secretary finds that the corrective action plan (and any amendment thereto approved by the Secretary under clause (ii)), is being fully implemented by the State and that the State is progressing in accordance with the timetable contained in the plan to achieve substantial compliance with such requirements.

"(B) A suspension of the penalty under subparagraph (A) shall continue until such time as the Secretary determines that—

"(i) the State has achieved substantial compliance,

"(ii) the State is no longer implementing its corrective action plan, or

"(iii) the State is implementing or has implemented its corrective action plan but has failed to achieve substantial compliance within the appropriate time period (as specified in subparagraph (A)(i)).

"(C)(i) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(i), the penalty shall not be applied.

"(ii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(ii), the penalty shall be applied as if the suspension had not occurred.

"(iii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(iii), the penalty shall be applied to all quarters ending after the expiration of the time period specified in such subparagraph (and prior to the first quarter throughout which the State program is found to be in substantial compliance).

"(3) For purposes of this subsection, section 402(a)(27), and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the child support enforcement program.".

(c) The amendments made by this section shall be effective on and after October 1, 1983.

EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORITY TO CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 10. (a) Section 1115(a) of the Social Security Act is amended—

(1) by striking out "part A" in the matter preceding paragraph (1) and inserting in lieu thereof "part A or D";

(2) by striking out "402," in paragraph (1) and inserting in lieu thereof "402, 454,"; and

(3) by striking out "403," in paragraph (2) and inserting in lieu thereof "403, 455,".

(b) Section 1115 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) In the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

"(1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program;

"(2) may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

"(3) must not result in increased cost to the Federal Government under the program of aid to families with dependent children.".

CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE

SEC. 11. (a)(1) Section 457 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) 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—

"(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 aid to families with dependent children) 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).".

(2) Section 457(b) of such Act is amended by inserting "(subject to subsection (d))" after "shall" in the matter preceding paragraph (1).

(b) Part D of title IV of such Act is further amended—

(1) in section 454(4)(B), by inserting "including an assignment with respect to a child on whose behalf a State agency is making foster care maintenance payments under part E," immediately after "such assignment is effective,", and by inserting "or E" immediately after "part A"; and

(2) in section 456(a), by inserting "or secured on behalf of a child receiving foster care maintenance payments" immediately after "section 402(a)(26)".

(c) Section 471(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.".

(d) Section 464(a) of such Act is amended—

(1) by inserting "or section 471(a)(17)" after "402(a)(26)"; and

(2) by striking out "457(b)(3)" and inserting in lieu thereof "457(b)(4) or (d)(3)".

(e) The amendments made by this section shall become effective October 1, 1984, and shall apply to collections made on or after that date.

ENFORCEMENT WITH RESPECT TO BOTH CHILD AND SPOUSAL SUPPORT

SEC. 12. (a) Section 454(4)(B) of the Social Security Act is amended—

(1) by striking out "and, at the option of the State," and inserting in lieu thereof ", and"; and

(2) by inserting ", and only if the support obligation established with respect to the child is being enforced under the plan" immediately after "but only if a support obligation has been established with respect to such spouse".

(b) Clause (A) of section 454(6) of such Act is amended—

(1) by striking out ", at the option of the State,"; and

(2) by inserting ", and only if the support obligation established with respect to the child is being enforced under the plan" immediately after "but only if a support obligation has been established with respect to such spouse".

(c) The amendments made by this section shall become effective October 1, 1985.

MODIFICATIONS IN CONTENT OF ANNUAL REPORT OF THE SECRETARY

SEC. 13. (a) Section 452(a)(10)(C) of the Social Security Act is amended to read as follows:

"(C) the following data, with the data required under each clause being separately stated for cases where the child is receiving aid to families with dependent children (or foster care maintenance payments under part E), cases where the child was formerly receiving such aid or payments and the State is continuing to collect support assigned to it under section 402(a)(26) or 471(a)(17), and 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, and the total amount of such obligations;

"(ii) the total number of cases in which a support obligation has been established, and the total amount of such obligations;

"(iii) the number of cases described in clause (i) in which support was collected during such fiscal year, and the total amount of such collections;

"(iv) the number of cases described in clause (ii) in which support was collected during such fiscal year, and the total amount of such collections; and

"(v) 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;".

(b) Section 452(a)(10) of such Act is further amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after subparagraph (H) the following new subparagraph:

"(I) the amount of administrative costs which are expended in each functional category of expenditures, including establishment of paternity.".

(c) The amendments made by this section shall be effective for reports for fiscal year 1986 and each fiscal year thereafter.

REQUIREMENT THAT AVAILABILITY OF CHILD SUPPORT ENFORCEMENT SERVICES BE PUBLICIZED

SEC. 14. (a) Section 454 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (21);

(2) by striking out the period at the end of paragraph (22) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (22) the following new paragraph:

"(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.".

(b) The amendments made by subsection (a) shall become effective October 1, 1985.

STATE COMMISSIONS ON CHILD SUPPORT

SEC. 15. (a) As a condition of the State's eligibility for Federal payments under part A or D of title IV of the Social Security Act for quarters beginning more than 30 days after the date of the enactment of this Act and ending prior to October 1, 1985, the Governor of each State, on or before December 1, 1984, shall (subject to subsection (f)) appoint a State Commission on Child Support.

(b) Each State Commission appointed under subsection (a) shall be composed of members appropriately representing all aspects of the child support system, including custodial and non-custodial parents, the agency or organizational unit administering the State's plan under part D of such title IV, the State judiciary, the executive and legislative branches of the State government, child welfare and social services agencies, and others.

(c) It shall be the function of each State Commission to examine, investigate, and study the operation of the State's child support system for the primary purpose of determining the extent to which such system has been successful in securing support and parental involvement both for children who are eligible for aid under a State plan approved under part A of title IV of such Act and for children who are not eligible for such aid, giving particular attention to such specific problems (among others) as visitation, the establishment of appropriate objective standards for support, the enforcement of interstate obligations, the availability, cost, and effectiveness of services both to children who are eligible for such aid and to children who are not, and the need for additional State or Federal legislation to obtain support for all children.

(d) Each State Commission shall submit to the Governor of the State and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation, and study under this section. The Governor shall transmit such report to the Secretary of Health and Human Services along with the Governor's comments thereon.

(e) None of the costs incurred in the establishment and operation of a State Commission under this section, or incurred by such a Commission in carrying out its functions under subsections (c) and (d), shall be considered as expenditures qualifying for Federal payments under part A or D of title IV of the Social Security Act or be otherwise payable or reimbursable by the United States or any agency thereof.

(f) If the Secretary determines, at the request of any State on the basis of information submitted by the State and such other information as may be available to the Secretary, that such State—

(1) has placed in effect and is implementing objective standards for the determination and enforcement of child support obligations,

(2) has established within the five years prior to the enactment of this Act a commission or council with substantially the same functions as the State Commissions provided for under this section, or

(3) is making satisfactory progress toward fully effective child support enforcement and will continue to do so,

then such State shall not be required to establish a State Commission under this section and the preceding provisions of this section shall not apply.

INCLUSION OF MEDICAL SUPPORT IN CHILD SUPPORT ORDERS

SEC. 16. Section 452 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) 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 absent 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 title XIX with respect to the availability of health insurance coverage.".

INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR SERVICE TO STATE AGENCIES

SEC. 17. Section 453(f) of the Social Security Act is amended by striking out ", after determining that the absent parent cannot be located through the procedures under the control of such State agencies,".

STATE GUIDELINES FOR CHILD SUPPORT AWARDS

SEC. 18. (a) Part D of title IV of the Social Security Act (as amended by section 3(b) of this Act) is further amended by adding at the end thereof the following new section:

"STATE GUIDELINES FOR CHILD SUPPORT AWARDS

"SEC. 467. (a) Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support award amounts within the State. The guidelines may be established by law or by judicial or administrative action.

"(b) The guidelines established pursuant to subsection (a) shall be made available to all judges and other officials who have the power to determine child support awards within such State, but need not be binding upon such judges or other officials.

"(c) The Secretary shall furnish technical assistance to the States for establishing the guidelines, and each State shall furnish the Secretary with copies of its guidelines.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1987.

AVAILABILITY OF SOCIAL SECURITY NUMBERS FOR CHILD SUPPORT ENFORCEMENT PURPOSES

SEC. 19. (a) Section 453(b) of the Social Security Act is amended by inserting "the social security account number (or numbers, if the individual involved has more than one such number) and" before "the most recent address".

(b)(1) Section 6103(l)(6)(A)(i) of the Internal Revenue Code of 1954 is amended by inserting "social security account number (or numbers, if the individual involved has more than one such number)," before "address".

(2) Section 6103(l)(8)(A) of such Code is amended by inserting "social security account numbers," before "net earnings".

EXTENSION OF ELIGIBILITY UNDER TITLE XIX WHEN SUPPORT COLLECTION RESULTS IN TERMINATION OF AFDC ELIGIBILITY

SEC. 20. (a) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Each dependent child, and each relative with whom such a child is living (including the spouse of such relative as described in subsection (b)), who becomes ineligible for aid to families with dependent children as a result (wholly or partly) of the collection or increased collection of child or spousal support under part D, and

who has received such aid in at least three of the six months immediately preceding the month in which such ineligibility begins, shall be deemed to be a recipient of aid to families with dependent children for purposes of title XIX for an additional four calendar months beginning with the month in which such ineligibility begins.".

(b) The amendment made by subsection (a) shall apply only with respect to individuals becoming ineligible for aid to families with dependent children (as described in section 406(h) of the Social Security Act as added by such subsection) on or after the date of the enactment of this Act and before October 1, 1988.

(c) Section 1902(a)(10)(A)(i)(I) of such Act is amended by inserting "or 406(h)" after "402(a)(37)".

COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

SEC. 21. (a) Section 464(a) of the Social Security Act (as amended by section 12(d) of this Act) is further amended by inserting "(1)" after "SEC. 464. (a)" and by adding at the end thereof the following new paragraphs:

"(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)) which such State has agreed to collect under section 454(6), 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.

"(B) This paragraph shall apply only with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1991.

"(3)(A) Prior to notifying the Secretary of the Treasury under paragraph (1) or (2) that an individual owes past-due 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 past-due support of the steps which may be taken to contest the State's determination that past-due support is owed or the amount of the past-due 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 past-due 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 past-due 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 past-due support (or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing such return).".

(b)(1) Section 464(a)(1) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "and pay" in the second sentence and inserting in lieu thereof the following: "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".

(2) Section 464(b) of such Act is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking out "The regulations shall specify" in the second sentence and inserting in lieu thereof "The regulations shall be consistent with the provisions of subsection (a)(3), shall specify";

(C) by striking out "and provide" and inserting in lieu thereof "and shall provide";

(D) by adding at the end of paragraph (1) as so redesignated the following: "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."; and

(E) by adding at the end thereof the following new paragraph:

"(2) In the case of withholdings made under subsection (a)(2), 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 past-due 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 past-due 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 past-due 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) Section 464(c) of such Act is amended—

(1) by striking out "(c) As used in this part" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), as used in this part"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For purposes of subsection (a)(2), the term 'past-due support' means only past-due support owed to or on behalf of a minor child.".

(d) Section 454(6) of the Social Security Act (as amended by section 3(c) of this Act) is further amended—

(1) by redesignating clause (C) as clause (D);

(2) by striking out "fee so imposed" in clause (D) as so redesignated and inserting in lieu thereof "fees so imposed"; and

(3) by striking out ", and" at the end of clause (B) and inserting in lieu thereof ", (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 464(a)(2), and".

(e)(1) Section 6402(c) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "to which such support has been assigned" and inserting in lieu thereof "collecting such support"; and

(B) by inserting before the last sentence thereof the following: "A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.".

(2) Section 6402 of such Code (as amended by section 2653 of the Deficit Reduction Act of 1984) is further amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) TREATMENT OF PAYMENTS TO STATES.—The Secretary may provide that, for purposes of determining interest, the payment of

any amount withheld under subsection (c) to a State shall be treated as a payment to the person or persons making the overpayment.".

(f)(1) Section 6103(l) of such Code (as so amended) is further amended by adding at the end thereof the following new paragraph:

"(11) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c).—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon receiving a written request, disclose to officers and employees of a State agency seeking a reduction under section 6402(c)—

"(i) the fact that a reduction has been made or has not been made under such subsection with respect to any taxpayer;

"(ii) the amount of such reduction;

"(iii) whether such taxpayer filed a joint return;

"(iv) Taxpayer Identity information with respect to the taxpayer against whom a reduction was made or not made and of any other person filing a joint return with such taxpayer; and

"(v) the fact that a payment was made (and the amount of the payment) on the basis of a joint return in accordance with section 464(a)(3) of the Social Security Act.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from a reduction made under section 6402(c).".

(2) Section 6103(p)(3)(A) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

(3) Section 6103(p)(4) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

(4) Section 6103(p)(4)(F)(ii) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

(5) Section 7213(a)(2) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

(g) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985.

WISCONSIN CHILD SUPPORT INITIATIVE

SEC. 22. (a)(1) If the State of Wisconsin requests the Secretary of Health and Human Services to waive the requirements of parts A and D of title IV of the Social Security Act, or to waive the requirements of part D and only those requirements of part A of such Act as relate to the provision of aid to dependent children as defined (without regard to section 407) in section 406(a) of the Social Securi-

ty Act (hereafter referred to in this section as "dependent children in single-parent families"), in order to permit the State to make an adequate test in any county or counties, or throughout the State, of its Child Support Initiative, the Secretary shall waive such requirements if—

(A) the State provides a complete description, in accordance with paragraph (2), of the program, known as the Initiative, which it will operate in place of the programs under such parts A and D, and makes the description readily available to the public throughout the State;

(B) the Governor provides assurances that, under the Initiative, assistance will be provided to all children in need of financial support, and the State will continue to operate an effective child support enforcement program;

(C) the State agrees that, during the conduct of such test, it will continue to determine eligibility for medical assistance under the State plan approved under title XIX of the Social Security Act, applying the criteria (insofar as may be applicable to members of families with dependent children affected by the Initiative) in effect under its State plan approved under part A of title IV for the month preceding the month in which the Initiative (approved under this section) becomes effective, except that such criteria shall be deemed to have been changed to the extent necessary to comply with generally applicable changes in Federal law or regulations occurring after the date of the enactment of this Act;

(D) the State specifies measurable performance objectives, submits an evaluation plan (including criteria for evaluating the Initiative), and agrees to submit interim and final evaluations and reports, at such time or times and containing such information, as the Secretary may require; and

(E) the State agrees to obtain, at least once every two years, a financial and compliance audit of the funds received under this section and to obtain, after the close of the operation of the Initiative under this section, such an audit and make it public within the State on a timely basis and provide a copy to the Secretary within 30 days after its completion.

(2) The program description provided under paragraph (1)(A) shall describe in detail how the proposed Initiative will affect children and families, with specific reference to the principles for calculating benefits and establishing and enforcing child support obligations. The description shall also include estimates of cost and program effects and provide other relevant information necessary for the Secretary to determine whether the financial well-being of children and their families will be adversely affected by the operation of the Initiative.

(b) The Child Support Initiative proposed by the State of Wisconsin as detailed in the program description submitted to the Secretary, and the related requested waivers, shall become effective within 120 days after its submission unless the Secretary determines that the financial well-being of children in the State will be adversely affected by the Initiative. The Secretary shall notify the State in writing that, effective with the beginning of the following quarter (or of such later quarter as the State may select), the State

may operate its Child Support Initiative instead of its programs of aid to families with dependent children (or, if the State had so requested, instead of its program of aid to dependent children in single-parent families) and child support enforcement in such county or counties, or on a statewide basis, as the State has indicated in its request. Except as specifically provided in subsection (c), no amount will be payable for any quarter under section 403(a) (or under section 403(a) with respect to single-parent families, if the State had so requested), 455(a), or 458 of the Social Security Act with respect to such county or counties in which the Initiative is in effect.

(c)(1) For each quarter during which such program is in effect throughout the State, the Secretary will pay to the State the sum of its proportionate share (as defined in paragraph (4)(A)) of each of the following:

(A) the amount advanced by the Secretary to all the other States (as defined in section 1101(a) of the Social Security Act) for such quarter with respect to section 403(a) (1) and (2) of such Act;

(B) the amount so advanced by the Secretary with respect to section 403(a)(3) of such Act;

(C) the amount so advanced by the Secretary with respect to section 455(a) of such Act; and

(D) the amount so advanced by the Secretary with respect to section 458(a) of such Act,

reduced by so much of its proportionate share of support collections on behalf of individuals receiving aid to families with dependent children (as defined in paragraph (4)(B)) as would have been credited to the Federal Government under section 457(b) of such Act had such collections been made in the last quarter of fiscal year 1986.

(2) If in any quarter the Initiative approved under this section is in operation in fewer than all the counties in the State, the amount paid to the State with respect to the counties to which the waiver under subsection (a) applies shall equal (in lieu of the amount specified in paragraph (1)) the proportionate share with respect to the counties in which the Initiative is operated (as defined in paragraph (5)(A)) of the amount advanced to the State under the four authorities specified in paragraph (1) with respect to all the other counties for such quarter, reduced by so much of the proportionate share of support collections (as defined in paragraph (5)(B)) with respect to the counties in which the Initiative is operated, as would have been credited to the Federal Government under section 457(b) of such Act had such collections been made in the last quarter of fiscal year 1986.

(3) Payment under this subsection shall be estimated by the Secretary before the beginning of each quarter during which the Initiative is in effect on the basis of the advances made under parts A and D of title IV of the Social Security Act for such quarter, and the Secretary shall make payments for such quarter on a monthly basis (with each payment made no later than the beginning of the month involved), in the amounts so estimated, and adjusted as necessary to reflect the amount of any previously made overpayment or underpayment under this section. Payment of any amount determined with respect to paragraphs (1)(A) and (1)(B) shall be made

from amounts appropriated to carry out part A of title IV of the Social Security Act for the appropriate fiscal year; payment of any amount determined with respect to paragraphs (1)(C) and (1)(D) shall be made from amounts appropriated to carry out part D of title IV of the Social Security Act.

(4)(A) The State's proportionate share of each amount enumerated in paragraph (1) shall be the portion of such amount that bears the same ratio to such amount as the corresponding portion advanced to the State for quarters in fiscal years 1984 through 1986 bears to the total corresponding amount advanced to all the other States for such quarters.

(B) The State's proportionate share of support collections means the amount that bears the same ratio to such collections on behalf of individuals receiving aid to families with dependent children by all the other States for the quarter involved as such collections by the State for quarters in fiscal years 1984 through 1986 bear to the total of such collections by all the other States for such quarters.

(5)(A) The proportionate share with respect to the counties in which the Initiative is operated, in the case of—

(i) the amount advanced to the State with respect to all other counties under section 403(a)(1) of the Social Security Act;

(ii) the amount so advanced under section 403(a)(3) of such Act;

(iii) the amount so advanced under section 455(a) of such Act; and

(iv) the amount so advanced with respect to section 458(a) of such Act,

is the sum of such amounts, each having been multiplied by the ratio of (I) the corresponding amount advanced with respect to such counties for all quarters in fiscal years 1984 through 1986 to (II) the corresponding amount advanced with respect to all the other counties in the State for all such quarters.

(B) The proportionate share of support collections for any quarter, with respect to the counties in which the Initiative is operated, means the amount that bears the same ratio to such collections on behalf of individuals receiving aid to families with dependent children with respect to all the other counties in the State for such quarter as such collections by such counties for quarters in fiscal years 1984 through 1986 bear to the total of such collections by all the other counties in the State for such quarters.

(6) If the State requests, under subsection (a), waiver of only those requirements under part A of title IV of the Social Security Act as relate to the provision of aid to dependent children in single-parent families, and continues to operate its program of aid to families with dependent children deprived by reason of the unemployment of a parent—

(A) the State's proportionate share of the amount specified in paragraph (1)(A) (and only that amount) shall be computed under paragraph (4) by application of the ratio of (i) the amount advanced to the State, under section 403(a)(1) of the Social Security Act for quarters in fiscal years 1984 through 1986 with respect to expenditures in the form of aid to dependent children in single-parent families, to (ii) the amount ad-

vanced to all the other States, under section 403(a) (1) and (2) of such Act with respect to such expenditures, rather than by application of the ratio specified in paragraph (4); and

(B) part A of title IV of such Act shall continue to apply to the State's program of aid to families with dependent children deprived by reason of the unemployment of a parent; except that section 403(a)(3) shall not apply during the period that, or in the part or parts of the State where, the Initiative is in effect.

(d)(1) The State may cease to conduct the Initiative under this section and (if it so chooses) return to the administration of its plans approved under part A and part D of title IV of the Social Security Act upon the provision to the Secretary of at least 3 months advance notice (or such greater advance notice as may be necessary so that administration of such plans will resume at the beginning of a quarter in the fiscal year).

(2) The Secretary may terminate approval of the Initiative upon the giving of at least 3 months advance notice (or such greater advance notice as may be necessary as specified in paragraph (1)) to the State if it is determined that the financial well-being of children in the State (or county or counties involved) would be better achieved by the operation of programs under part A and part D of title IV of the Social Security Act.

(e) This section shall be in effect for quarters beginning after September 30, 1986, and ending before October 1, 1994.

SENSE OF THE CONGRESS THAT STATE AND LOCAL GOVERNMENTS SHOULD FOCUS ON THE PROBLEMS OF CHILD CUSTODY, CHILD SUPPORT, AND RELATED DOMESTIC ISSUES

SEC. 23. (a) The Congress finds that—

(1) the divorce rate in the United States has reached alarming proportions and the number of children being raised in single parent families has grown accordingly;

(2) there is a critical lack of child support enforcement, which Congress has undertaken to address through the child support enforcement program;

(3) Congress is strengthening that program to recognize the needs of all children;

(4) related domestic issues, such as visitation rights and child custody, are often intricately intertwined with the child support problem and have received inadequate consideration; and

(5) these related issues remain within the jurisdiction of State and local governments, but have a critical impact on the health and welfare of the children of the Nation.

(b) It is the sense of Congress that—

(1) State and local governments must focus on the vital issues of child support, child custody, visitation rights, and other related domestic issues that are properly within the jurisdictions of such governments;

(2) all individuals involved in the domestic relations process should recognize the seriousness of these matters to the health and welfare of our Nation's children and assign them the highest priority; and

(3) a mutual recognition of the needs of all parties involved in divorce actions will greatly enhance the health and welfare of America's children and families.

And the Senate agree to the same.

DAN ROSTENKOWSKI,
HAROLD FORD of Tennessee,
PETE STARK,
DONALD J. PEASE,
ROBERT T. MATSUI,
WYCHE FOWLER, Jr.,
BARBARA B. KENNELLY,
BARBER B. CONABLE, Jr.,
CARROLL CAMPBELL,
W. HENSON MOORE,
WILLIAM THOMAS of California,
Managers on the Part of the House.

ROBERT DOLE,
BOB PACKWOOD,
WILLIAM L. ARMSTRONG,
CHUCK GRASSLEY,
RUSSELL B. LONG,
DANIEL PATRICK MOYNIHAN,
BILL BRADLEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4325) to assure, through mandatory income withholding, incentive payments to the States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. Statement of Purpose

SECTION 2

Present law

Title IV-D of the Social Security Act authorizes funds for the purpose of "enforcing the support obligations owed by absent parents to their children and the spouse (or former spouse) with whom such children are living, locating absent parents, establishing paternity, and obtaining child and spousal support . . ."

House bill

Amends present law by adding the following language: "and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested."

Effective date.—On enactment.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. Required State Procedures

SECTION 3

Present law

The Federal statute generally does not specify the types of procedures States must use in operating their programs. Sec. 454(13) requires the States to comply with such requirements and standards as the Secretary determines to be necessary to the establishment of an effective program.

House bill

States are required to enact laws establishing the following procedures for use in their IV-D programs.

Senate amendment

Similar to House bill.

Conference agreement

The conference agreement includes the provision that is in both the House bill and the Senate amendment requiring the States to have laws establishing specified child support enforcement procedures for use in their IV-D programs. Under the conference agreement, income withholding procedures must be used in all cases that meet the specifications set forth in this bill. However, the States need not apply certain other procedures in those cases where they determine (taking into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations) that such application would be inappropriate, or would not serve the purpose of the child support program. The procedures with respect to which this State discretion is available are: State tax refund intercept, liens, posting of bond or giving security, and making available information to credit agencies.

With regard to the income withholding procedures, the conferees want to make clear their intent that individuals will not be exempt from withholding because they are employees of the Federal government. The conferees believe that section 459 of the Social Security Act will allow income withholding to be applied to Federal employees. This section provides that moneys (the entitlement to which is based on remuneration for employment) due from or payable by, the United States or the District of Columbia are subject to garnishment to the same extent as if the United States or the District of Columbia were a private person in cases involving enforcement of child support or alimony obligations.

Section 459 was added to the Social Security Act in 1975 as part of the original child support enforcement legislation specifically to assure that individuals who owe child support obligations which are being enforced in accordance with State law cannot evade their obligations simply because the payments being made to them are Federal moneys. The legislative history of this provision reflects

the explicit intention of the Congress to override prior decisions by the courts which had held that garnishment or attachment procedures involved the immunity of the United States from suits to which it had not consented.

The conferees reaffirm Congressional intent that individuals should not be exempt from enforcement of child support obligations through attachment or withholding of wages on the basis of their relationship to the Federal government. The conferees note that the current garnishment provisions are written broadly to include (with specific exceptions) all compensation paid or payable for personal services whether the compensation is denominated as wages, salary, commission, bonus pay, severance pay, sick pay, and incentive pay, and extend as well to pensions, retirement or retired pay, annuities, dependent or survivors' benefits, and other similar amounts. In view of the broad interpretation which was clearly intended by the framers of this provision, the conferees believe that there is no merit in the argument that has been raised in at least one State that an individual is immune to wage withholding for the enforcement of child support obligations on the grounds that the private company for which he is working is operating on Federal land.

(A) INCOME WITHHOLDING

1. House bill

In the case of each absent parent against whom a support order is or has been issued or modified in the State, the State must provide for withholding from wage income, in accordance with the conditions described below.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. House bill

The amount withheld must be the amount of the current support order, plus amounts for arrearages and for a fee to the employer to cover the cost of withholding. The fee to the employer will be established by the State. The total amount withheld may not exceed the limits provided in sec. 303(b) of the Consumer Credit Protection Act. The limits provided in that law are 50 percent of disposable earnings in the case of an absent parent who has a second family, and 60 percent in the case of an absent parent without a second family. These limits are each increased by 5 percent (to 55 and 65) if there are arrearages with respect to a period prior to the 12-week period which ends with the beginning of the pay period involved. (The Consumer Credit Protection Act defines disposable earnings as that part of the earnings remaining after the deduction of any amounts required by law to be withheld.) The State need not withhold up to the maximum amount permitted in order to satisfy arrearages.

Senate amendment

Same as House bill, except States are allowed, rather than required, to provide for a fee to cover the cost to the employer of the withholding procedure. Also includes technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

3. House bill

Withholding must begin the earlier of: (1) when the arrearage reaches an amount equal to one month's support payment; or (2) when an absent parent requests withholding. States may begin withholding at any earlier time.

Senate amendment

Same as House bill, except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

4. House bill

Withholding must occur without amendment of the order or further action by the court. Withholding must be initiated without the necessity of any application therefore on behalf of all IV–D (both AFDC and non-AFDC) families. Families not receiving IV–D services may file an application for such services to trigger the initiation of withholding by the administering agency on their behalf.

Senate amendment

Same as House bill, except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

5. House bill

Withholding must be carried out in full compliance with all procedural due process requirements of the State. The State must provide the absent parent with advance notice of withholding and the procedures to be followed if the absent parent wants to contest the action on the grounds that withholding is not proper in the case because of mistakes of fact. If the absent parent contests the withholding, the agency administering the system must determine whether the withholding will actually occur, and must notify the individual of the date on which the withholding is to begin within not more than 30 days after the provision of the advance notice.

Senate amendment

Same as House bill, except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment with an amendment providing that if withholding is contested, the State must notify the non-custodial parent within no more than 45 days

whether and when such withholding will occur. If the State determines that withholding will occur, it must furnish the parent with the information that is contained in the notice it sends to the employer requiring that withholding begin. The conference agreement also clarifies that the requirement for advance notice shall not apply in the case of any State that has an income withholding system in effect on the date of enactment if such system provides on such date, and continues to provide, such procedures as may be necessary to meet due process requirements of State law.

6. House bill

The withholding system must be administered by an entity designated by the State (the IV–D agency or other public entity), and provision must be made for expeditious distribution of amounts withheld. The State may provide procedures for the collection and distribution of withheld amounts other than through a public agency or entity, so long as such procedures are publicly accountable, allow prompt distribution, and permit the keeping of records to document the payment of support.

Senate amendment

Same as House bill, except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

7. House bill

Employers of individuals subject to withholding, upon receiving proper notice from the State to begin withholding for child support payments (which must be a separate document containing no information other than the amount to be withheld and the amount of the fee to be retained by the employer, or other information necessary for the employer to comply with the withholding order), must be: (1) required to withhold from wages and forward to the appropriate agency (or comply with State approved alternative procedures summarized above) the amount specified in the notice plus a fee paid to the employer (unless any such fee is waived by the employer); (2) allowed to combine all amounts withheld from employees for child support into one check to the appropriate agency, and otherwise simplify the withholding process; (3) held liable to the State (on behalf of the State in AFDC cases and on behalf of the obligee in non-AFDC cases) for any amount they fail to withhold; and (4) subject to a fine if an employee is discharged from employment, refused employment or subjected to disciplinary action because of withholding for child support, even if there are other withholdings for the same employee for other purposes.

Senate amendment

Same as House bill, except the State is not required to include in the notice to the employer an amount to be withheld by him as a fee to cover the cost of withholding. The amendment also provides that an employer shall not be required to vary the normal pay and disbursement cycles in order to comply with the requirement, and includes technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

8. House bill

Withholding for child support payment must take priority over any legal process under State law against the same wage.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

9. House bill

The State may extend its system of withholding to include withholding from forms of income other than wages.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

10. House bill

The State must make such arrangements and enter into such agreements with other States as may be necessary: (1) to extend its withholding to include withholding from income derived within the State in cases where the support orders were issued in other States, and (2) to encourage the extension of the withholding systems of other States so that such systems will include withholding from income derived in those States in cases where the support orders were issued within the State.

Senate amendment

The State must extend its withholding system so that it will include withholding from income derived within the State in cases where the support orders were issued in other States.

Conference agreement

The conference agreement follows the Senate amendment.

11. House bill

There must be provision for terminating withholding.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

12. House bill

All child support orders issued or modified in the State after October 1, 1985 must include provision for withholding of wages if arrearages occur. Withholding must be applied under the conditions and procedures established by the State for cases that are not IV-D cases, and in accordance with the requirements and procedures summarized above for IV-D cases.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

13. House bill

For purposes of the income withholding provision, defines "wages" as all cash remuneration for employment, determined without regard to any exclusions from or limitations on such term (or the term "employment") which may be applicable under other provisions of the Social Security Act or under other Federal, State, or local laws.

Senate amendment

No provision.

Conference agreement

The conference agreement gives the States the authority to define wages.

(B) EXPEDITED PROCEDURES

House bill

States must make reasonable efforts to expedite and otherwise improve the establishment of, compliance with, and enforcement of child support obligations and any related obligations arising under or in connection with the support orders involved.

Senate amendment

Requires States to have in effect expedited processes within the State judicial system for establishing paternity and obtaining and enforcing child support orders. Decisions or recommendations resulting from the expedited process must be reviewed (i.e., ratified, modified, or remanded) by judges of the court. In addition, appellate review of child support decisions or actions resulting from the expedited processes would be conducted by the regular court system at the request of either party.

The Secretary would have authority to waive expedited procedures in political subdivisions of States due to variations within States in the effectiveness and timeliness of current processes. Jurisdictions that use administrative processes would qualify for a waiver on the same basis as State or political subdivisions using regular court processes.

Conference agreement

The conference agreement mandates that the States use expedited processes, but allows them to determine whether they are under the judicial system or administrative processes. States are permitted but not required to include paternity establishment in their expedited process. The Secretary may waive the requirement for political subdivisions within a State as provided in the Senate amendment. The managers intend that States shall adopt judicial or administrative changes as needed to expedite the processing of child support actions. It is not intended that the Secretary be authorized to specify the particular administrative or judicial structures to be adopted by the States. Rather, it is intended that the Secretary should measure a State's compliance with this provision primarily on the basis of the results it produces. A State will not be out of compliance if it is achieving appropriate results or is in the process of implementing changes which are reasonably designed to bring about such results.

(C) STATE INCOME TAX REFUND OFFSETS

1. House bill

Requires States, at the request of the State IV–D agency, to withhold from any tax refund otherwise payable amounts of past-due support owed by an absent parent for the benefit of an AFDC child, or, at the option of the State, any child who is receiving IV–D services. Provision must be made for withholding for interstate cases.

Senate amendment

Similar to House bill, but also requires the State to withhold amounts owed on behalf of a child who is not receiving AFDC and allows the State to withhold a fee to cover the costs of collection. The amendment requires notice of the absent parent's home address and social security number to the State agencies that request and enforce the order, and includes technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

2. House bill

Requires notice to the absent parent of the proposed reduction and the procedures to be followed to contest the action. Procedures must be in compliance with due process procedures of the State.

Senate amendment

Same as House bill, except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

(D) LIENS AGAINST PROPERTY

House bill

Requires States to have procedures for imposing liens against real and personal property for amounts of past-due support owed

by a State resident or an individual who owns property in the State.

Senate amendment

Same as House bill, but limited to cases where the States find the procedure appropriate. The amendment includes technical differences.

Conference agreement

The conference agreement follows the Senate amendment with an amendment deleting the reference to "appropriate" cases. Discretion not to apply the procedure when the State determines that it is inappropriate is provided in the more general discretionary authority which is included in the conference agreement as described above (under the heading "Required State Procedures").

(E) PATERNITY STATUTE OF LIMITATIONS

House bill

State paternity laws must permit the establishment of paternity until a child's 18th birthday.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

(F) SECURITY OR BOND IN CERTAIN CASES

House bill

Requires States to have procedures to require in appropriate cases that an individual give security, post a bond, or give some other type of guarantee to secure support obligations of absent parents who have a pattern of past-due support. There must be notice to the individual of the proposed requirement including the procedures to be followed to contest the action. Procedures must be in compliance with due process procedures of the State.

Senate amendment

Same as House bill, except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment with an amendment deleting the reference to "appropriate cases." Discretion not to apply the procedure when the State determines that it is inappropriate is provided in the more general discretionary authority which is included in the conference agreement as described above (under the heading "Required State Procedures").

(G) PROVIDING INFORMATION ON OVERDUE SUPPORT TO CREDIT AGENCIES

House bill

Requires States to make available to consumer credit bureau organizations, at the request of such agencies, the amount of past-due support owed by absent parents residing in the State. States must make available information on arrearages of $1,000 or more, and may make available information on smaller arrearages. An individual must be notified of the proposed action and given reasonable opportunity to contest the accuracy of the information involved. The notification and procedures for contesting the proposed release of information to credit agencies must be in compliance with the due process procedures in the State. The State may charge a fee to the credit agencies who request and receive this information which cannot exceed the cost to the State of providing the information.

Senate amendment

Same as House bill except for technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

(H) TRACKING AND MONITORING OF SUPPORT PAYMENTS BY PUBLIC AGENCY

House bill

The State must provide that, at the request of either the custodial or absent parent, child support payments must be made through the agency that administers the State's income withholding system regardless of whether there is an arrearage which requires withholding to occur. The State must charge a fee equal to the cost incurred by the State for these services, up to a maximum of $25 a year.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment making the provision optional with the State.

(I) NOTIFICATION TO AFDC RECIPIENT OF SUPPORT COLLECTED

House bill

No provision.

Senate amendment

States are required to notify each AFDC recipient, at least once each year, of the amount of child support collected on behalf of that recipient.

Conference agreement

The conference agreement follows the Senate amendment.

(J) DEFINITIONS

House bill

For purposes of the provisions dealing with State income tax refund offsets (c), liens (d), security/bond (f), and information for consumer credit agencies (g), the term "past-due support" is defined as meaning 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.

Senate amendment

For purposes of the provisions dealing with State income tax refund offsets (c), liens (d), security/bond (f), and information for consumer credit agencies (g), the term "overdue support" is defined as meaning the amount of a delinquency (which has continued for such minimum period of time as established by the Secretary) 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 a minor child. At the option of the State, overdue support may include spousal support (in specified circumstances) and may include amounts which are owed to or on behalf of a child who is not a minor child.

Conference agreement

The conference agreement follows the Senate amendment with modifications to strike the Secretary's authority to establish the minimum period of time, and to require the collection of spousal support if the State is otherwise required to collect spousal support as provided under sec. 12 of the conference agreement.

(K) EXEMPTION AUTHORITY

House bill

The Secretary may grant an exemption, subject to later review, of the required procedures, if the State can demonstrate that such procedures will not improve the efficiency and effectiveness of the State IV-D program.

Senate amendment

Same as House bill. (Does not apply to provision (I) relating to notice to AFDC recipients.)

Conference agreement

The conference agreement follows the Senate amendment.

(L) EFFECTIVE DATE

House bill

October 1, 1985.

Senate amendment

October 1, 1984. If a State agency administering a plan approved under part D of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of a provision mentioned above, the Secretary may prescribe that the provision will become effective beginning with the fourth month beginning after the close of the first session of such State's legislature ending on or after October 1, 1984.

Conference agreement

The conference agreement provides for an effective date of October 1, 1985 and provides that if a State cannot, by reason of State law, comply with the requirement of a provision mentioned above, the Secretary may waive the requirement of such provision until the beginning of the fourth month beginning after the close of the first session of such State's legislature ending on or after October 1, 1985.

3. Federal Matching of Administrative Costs

SECTION 4

Present law

The Federal Government pays 70 percent of State and local administrative costs for child support enforcement services to both Aid to Families with Dependent Children (AFDC) and non-AFDC families, on an open-end entitlement basis.

House bill

Retains present law.

Senate amendment

Reduces the Federal matching rate as follows:

Fiscal year 1987 to 69 percent
Fiscal year 1988 to 68 percent
Fiscal year 1989 to 67 percent
Fiscal year 1990 to 66 percent
Fiscal year 1991 to 65 percent

Conference agreement

The conference agreement provides for Federal matching of administrative costs as follows:

70 percent for fiscal years 1984, 1985, 1986 and 1987
68 percent for fiscal years 1988 and 1989
66 percent for fiscal year 1990 and years thereafter.

4. Federal Incentive Payments

SECTION 5

Present law

A 12 percent incentive payment (financed out of the Federal share of collections) is made to States and localities for collections made on behalf of AFDC families.

1. House bill

Repeals the 12% incentive payment, effective October 1, 1985.

Establishes new incentives based on collections on behalf of both AFDC and non-AFDC families. Requires the Secretary to make incentive payments as follows:

The basic incentive payment is equal to 4% of the State's AFDC collections, and 4% of its non-AFDC collections (subject to the cap described below).

To the extent AFDC or non-AFDC collections equal or exceed combined administrative costs for both AFDC and non-AFDC, higher incentives will be paid on a sliding scale up to 10% each of non-AFDC and AFDC collections, according to the following cost/collection ratios:

AFDC incentive

	Incentive equal to this percent of AFDC collections
Ratio of AFDC collections to combined AFDC/non-AFDC administrative costs:	
1.0:1	5.0
1.1:1	5.5
1.2:1	6.0
1.3:1	6.5
1.4:1	7.0
1.5:1	7.5
1.6:1	8.0
1.7:1	8.5
1.8:1	9.0
1.9:1	9.5
2.0:1	10.0

Non-AFDC incentive

	Incentive equal to this percent of non-AFDC collections
Ratio of non-AFDC collections to combined AFDC/non-AFDC administrative costs:	
1.0:1	5.0
1.1:1	5.5
1.2:1	6.0
1.3:1	6.5
1.4:1	7.0
1.5:1	7.5
1.6:1	8.0
1.7:1	8.5
1.8:1	9.0
1.9:1	9.5
2.0:1	10.0

The total dollar amount of the incentive paid for non-AFDC collections is capped at an amount equal to 125% of the State's incentive payment for AFDC collections.

Senate amendment

Repeals the 12% incentive payment, effective October 1, 1985.

Establishes new incentives based on collections on behalf of both AFDC and non-AFDC families. Requires the Secretary to make incentive payments as follows:

The basic incentive is 6% of collections. Above 6%, incentives are paid according to the following cost/collection ratios:

AFDC incentive

Ratio of AFDC collections to combined AFDC/non-AFDC administrative costs:	*Incentive equal to this percent of AFDC collections*
1.4:1	6.5
1.6:1	7.0
1.8:1	7.5
2.0:1	8.0
2.2:1	8.5
2.4:1	9.0
2.6:1	9.5
2.8:1	10.0

Non-AFDC incentive

Ratio of non-AFDC collections to combined AFDC/non-AFDC administrative costs:	*Incentive equal to this percent of AFDC collections*
1.4:1	6.5
1.6:1	7.0
1.8:1	7.5
2.0:1	8.0
2.2:1	8.5
2.4:1	9.0
2.6:1	9.5
2.8:1	10.0

The incentive paid for non-AFDC collections is capped at an amount equal to 100% of the incentive for AFDC collections.

Conference agreement

The conference agreement follows the Senate amendment with an amendment providing that the incentive paid for non-AFDC collections will be capped at an amount equal to 100% of the incentive for AFDC collections in fiscal years 1986 and 1987, 105% in fiscal year 1988, 110% in fiscal year 1989, and 115% in fiscal year 1990 and any fiscal year thereafter. The agreement also provides that for fiscal year 1985, the amount of the AFDC incentive will be calculated on the basis of AFDC collections without regard to the provision added by the Deficit Reduction Act of 1984 that requires that the first $50 collected on behalf of an AFDC family in any month must be paid to the family without reducing the amount of the AFDC payment to the family.

2. House bill

At State option, the laboratory costs of determining paternity may be deducted from combined administrative costs for purposes of computing incentive payments.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. House bill

Under a pass-through requirement, States must assure that localities which participate in the costs of collecting support will receive an appropriate share of any incentive payments, as determined by the Secretary.

Senate amendment

Requires the States to develop their own criteria for passing through incentives to localities, taking into account efficiency and effectiveness of local programs.

Conference agreement

The conference agreement follows the Senate amendment.

4. House bill

Incentive funds must be estimated and projected on an annual basis so that States will know in advance what their payments will be.

Amounts collected in interstate cases will be credited, for purposes of computing incentive payments, to both initiating and responding States.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. House bill

Effective date.—October 1, 1985. However, for fiscal year 1986 only, States will receive the higher of the amount due them under the new incentive provision or 80 percent of what they would have received under the existing 12 percent incentive program.

Senate amendment

Same as House bill, except for fiscal year 1986 and fiscal year 1987, a State is eligible to receive the higher of the amount due it under the new incentive and match provisions or 80 percent of what it would have received under the existing 12 percent incentive formula and 70 percent match.

Conference agreement

The conference agreement follows the Senate amendment.

5. NINETY PERCENT MATCHING FOR AUTOMATED MANAGEMENT SYSTEMS USED IN INCOME WITHHOLDING AND OTHER REQUIRED PROCEDURES

SECTION 6

Present law

Ninety percent Federal matching is available, on an open-end entitlement basis, to States that elect to establish an automatic data processing and information retrieval system designed 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. Funds may be used to plan, design, develop, and install or enhance the system. The Secretary must approve the system as meeting specified conditions before matching is available.

House bill

Maintains present law. In addition, specifies that if a State meets the requirements in present law, matching funds may be used for the development and improvement of the income withholding and other procedures required in the bill (described in item 2) through the monitoring of child support payments, the maintenance of accurate records regarding the payment of child support, and the provision of prompt notification to appropriate officials with respect to any arrearages that occur.

Also specifies that the 90 percent matching is available to pay for the acquisition of computer hardware.

Effective date.—First quarter after enactment.

Senate amendment

Same as House bill, except for technical differences and an effective date of October 1, 1984.

Conference agreement

The conference agreement follows the Senate amendment.

6. FEES FOR SERVICES

SECTION 3

Present law

(a) Application fee

States have the option of charging an application fee for furnishing services to non-AFDC families. The fee must be reasonable, as determined under regulations of the Secretary. Currently the maximum allowable fee is $20 (to be paid by the custodial parent) unless the State has a fee schedule based on each applicant's income. In the latter case, the schedule must be designed so as not to discourage applications by those most in need of services.

(b) Additional costs

In addition, a State may at its option recover costs in excess of the fee. Such recovery may be from either the custodial parent or the absent parent. If a State chooses to make recovery from the custodial parent, it must have in effect a procedure whereby all persons in the State who have authority to order support are informed that such costs are to be collected from the custodial parent.

(c) Late payment fee

No provision.

House bill

(a) Application fee

Retains present law.

(b) Additional costs

Retains present law.

(c) Late payment fee

No provision.

Senate amendment

(a) Application fee

States are required to charge an application fee for non-AFDC cases. The fee may not exceed $25, but, beginning in fiscal year 1986, the Secretary may adjust the maximum allowable fee amount to reflect changes in administrative costs. The State may charge the fee against the custodial parent or pay the fee out of its own funds. The State may also recover the fee from the absent parent. Additionally, the State may vary the amount of the fee to reflect ability to pay. (If the State pays the fee from its own funds, the payment may not be considered an administrative cost for purposes of federal matching.)

(b) Additional costs

Retains present law.

(c) Late payment fee

States must have in effect a law under which a late payment fee is charged to the absent parents of AFDC and non-AFDC families on support that is overdue. The fee must be a uniform amount established by the State equal to 3 to 10 percent of the overdue support owed for months beginning the month following the enactment of the bill. The State may not take any action which would have the effect, directly or indirectly, of reducing the support paid to the child and may collect the fee only after the full amount of the overdue support has been paid to the child.

Effective date.—October 1, 1984.

Conference agreement

The conference agreement follows the Senate amendment with several modifications. States are required to charge an application fee as proposed by the Senate but the managers wish to clarify that the HHS secretary's authority to adjust the fee beginning in FY 86 pertains only to the maximum allowable fee. The conference agreement also establishes a late payment fee that is optional to the States and limits the fee to between 3 and 6 percent. States may provide for these fees to be retained by the jurisdiction making the collection. In such a case, the collecting jurisdiction would be able to utilize the income generated by the fees to cover enforcement costs not otherwise funded by the State. To the extent such costs were met from the fees, they would not be subject to matching.

7. Continuation of Services for Families That Lose AFDC Eligibility

SECTION 7

Present law

There is no special provision requiring States automatically to continue support collection activities on behalf of families when they lose eligibility for AFDC.

House bill

States must provide that AFDC recipients whose eligibility for AFDC is terminated due to the receipt of (or an increase in) child support payments or for other reasons will be automatically transferred from AFDC to non-AFDC status under the State IV-D program, without requiring reapplication or the payment of an application fee; and will be provided child support enforcement services on the same basis and under the same conditions as other non-AFDC cases.

Effective.—October 1, 1985.

Senate amendment

Same as House bill, except for technical differences. The effective date is October 1, 1984.

Conference agreement

The conference agreement follows the House bill, but with an amendment providing for the effective date in the Senate amendment.

8. Special Project Grants To Promote Improvements in Interstate Enforcement

SECTION 8

Present law

There is no special provision for funding of interstate enforcement activities.

House bill

Beginning with fiscal year 1985, authorizes an appropriation of $15 million a year to be used by the Secretary to fund special projects developed by States with the objective of using innovative techniques or procedures for, and otherwise improving, child support collections in interstate cases. (Report language makes clear Congressional intent that these special funds should be used by a State to augment and not supplant existing State efforts with respect to interstate cases.)

Senate amendment

Same as House bill, except authorizes $5 million for fiscal year 1985, $10 million for fiscal year 1986, and $15 million for fiscal year 1987 and years thereafter. (Senate report includes language similar to that in the House report.)

Conference agreement

The conference agreement follows the House bill with an amendment authorizing $7 million in fiscal year 1985, $12 million in fiscal year 1986, and $15 million in fiscal year 1987 and years thereafter.

9. Periodic Review of Effectiveness of State Programs; Modification of Penalty

SECTION 9

Present law

The Director of the Office of Child Support Enforcement is required to conduct an annual audit of each State's child support enforcement program to determine whether it complies with the requirements of the Federal statute. If he finds that the State has failed to have an effective program meeting the specified requirements, the amount of the Federal matching payments to the State under the AFDC program must be reduced by 5 percent. This penalty has never been imposed. Legislation has periodically been enacted to suspend its implementation.

House bill

The present audit and penalty requirements are modified as follows:

The Secretary is required to conduct a review of each State's program at least every 3 years to determine whether the program substantially complies with the requirements of the statute, and to evaluate its effectiveness in carrying out the purposes of the Federal child support law.

If the Secretary finds that a State has not met the requirements of the law, and there has not been corrective action to bring about substantial compliance, the amount of the State's AFDC matching must be reduced by not more than 2 percent, or, if the finding is the second consecutive such finding, not more than 3 percent, or, if the finding is the third or subsequent consecutive such finding, not more than 5 percent. The reduction must continue until the first

quarter throughout which the program is found to meet the requirements.

Effective date.—October 1, 1983.

Senate amendment

The present audit and penalty requirements are modified as follows:

The Director of the Federal Office of Child Support Enforcement is required to conduct audits at least every three years to determine whether the standards and requirements prescribed by law and regulation have been met. Under the penalty provision, a State's AFDC matching funds must be reduced by an amount equal to at least 1 but no more than 2 percent for the first failure to comply substantially with the standards and requirements, at least 2 but no more than 3 percent for the second consecutive failure, and at least 3 but not more than 5 percent for the third and any subsequent consecutive failures.

Annual audits would be required unless a State is in substantial compliance. If a State is not in substantial compliance, the penalty may be suspended, but only if the State is actively pursuing a corrective action plan which can be expected to bring the State into substantial compliance on a specific and reasonable timetable. A State which is not in full compliance would be determined to be in substantial compliance only if the Secretary determines that any noncompliance is of a technical nature which does not adversely affect the performance of the child support enforcement program.

Effective date.—October 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment with several modifications: (1) audits are to be performed on the basis of substantial compliance as defined in the Senate amendment; (2) the Secretary of HHS is required to approve State corrective action plans designed to achieve substantial compliance; and (3) the Secretary may suspend penalties to allow States to implement approved corrective action plans. If at the end of the corrective action period substantial compliance has been achieved, no penalty would be due. If substantial compliance has not been achieved, penalties would begin at the end of the corrective action period if the State has implemented the corrective action plan.

10. Extension of Sec. 1115 Demonstration Authority to Child Support Enforcement

SECTION 10

Present law

Sec. 1115 of the Social Security Act authorizes the Secretary to grant waivers to States in the operation of their AFDC and medicaid programs, if he determines that the waivers are necessary to enable the States to conduct experimental, pilot, or demonstration projects which are likely to assist in promoting the objective of the programs.

House bill

Expands the sec. 1115 demonstration authority to include the child support enforcement program under the following conditions: (a) the intent of the requested waiver must be to test modifications that will improve the financial well-being of children; (b) a waiver will not be allowed for any modification that would disadvantage children in need of support; and (c) the requested waiver will not result in an increase in Federal AFDC costs.

Effective date.—On enactment.

Senate amendment

Same as House bill, except also allows demonstrations that are intended to improve the operation of the program, so long as the conditions described in (b) and (c) of the House bill are met.

Conference agreement

The conference agreement follows the Senate amendment. The conferees express concern about protecting children who may be affected by these child support demonstration projects. It is the intention of the conferees that any children involved in the demonstrations will not be disadvantaged financially or otherwise.

11. Child Support Enforcement for Certain Children in Foster Care

SECTION 11

Present law

There is no specific authority in the law for collection of child support on behalf of children who are placed in foster care. This authority was deleted when the foster care program was transferred from the title IV–A to title IV–E.

House bill

Requires State child support agencies to undertake child support collections on behalf of children receiving foster care maintenance payments under title IV–E of the Social Security Act, if an assignment of rights to support to the State has been secured by the foster care agency.

Requires States to take steps, where appropriate, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under the title IV–E foster care program.

Effective date.—October 1, 1983.

Senate amendment

Same as House bill, but with an effective date on enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, but with an effective date of October 1, 1984.

12. Enforcement With Respect to Both Child and Spousal Support

SECTION 12

Present law

At the option of the State, child support enforcement services may include the enforcement of spousal support, but only if a support obligation has been established with respect to the spouse, and the child and spouse are living in the same household.

House bill

Collection by the State of spousal support under the specified circumstances is required, rather than allowed.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment clarifying that the provisions in current law and the House bill apply only where child support is being collected along with spousal support.

13. Modifications in Content of Secretary's Annual Report

SECTION 13

Present law

Within 3 months after the close of each fiscal year, the Secretary must submit an annual report to the Congress on child support program activities. The statute specifies certain data which must be included in the report.

House bill

The information required to be included in the annual report is modified to include the following information by State:

(1) the number of AFDC and non-AFDC cases in which there are preexisting or newly established support obligations, the amount of those obligations, the number of such cases with collections and the amount collected;

(2) the number of cases with support obligations in which 33-66 percent, under 33 percent and 0 percent was paid; and

(3) data regarding interstate collection.

Effective for reports due beginning with fiscal year 1987.

Senate amendment

Modifies the present reporting requirements to require the following information by State:

(1) the total number of cases in which a support obligation has been established in the past year and the total amount of such obligations for these cases;

(2) the total number of cases in which a support obligation has been established and the total amount of such obligations for these cases;

(3) those cases described in (1) in which support was collected during such fiscal year and the total amount of such collections; and

(4) those cases described in (2) in which support was collected during such fiscal year and the total amount of such collections.

Additionally, the annual report must include information on the child support cases filed and the collections made in each State on behalf of children residing in another State or cases against parents residing in another State.

Finally, the annual report must detail how much in administrative costs is spent in each functional category (including paternity) of expenditures. The information is to be separately stated for current and for past AFDC cases and non-AFDC cases.

Effective for reports due beginning with fiscal year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

14. Requirement To Publicize the Availability of Child Support Services

SECTION 14

Present law

No provision.

House bill

States must frequently publicize, through public service announcements and other means, the availability of child support enforcement services, together with information as to the application fee for such services, if any, and a telephone number or postal address to be used to obtain additional information.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment limiting the requirement to public service announcements. The announcements may be made using radio, television, newspapers, or such other media as the State determines appropriate.

15. State Commissions on Child Support

SECTION 15

Present law

No provision.

House bill

The Governor of each State is required to appoint a State Commission on Child Support. The Commission must include representation from all aspects of the child support system including custodial and non-custodial parents, the IV–D agency, the judiciary, the governor, the legislature, child welfare and social services agencies, and others.

Each State commission is to examine the functioning of the State child support system with regard to securing support and parental involvement for both AFDC and non-AFDC children, including but not limited to such specific problems as: (1) visitation; (2) establishment of appropriate objective standards for support; (3) enforcement of interstate obligations; and (4) additional Federal and State legislation needed to obtain support for all children.

The commissions shall submit to the Governor and make available to the public, reports on their findings and recommendations no later than October 1, 1985.

Costs of operating the commissions will be eligible for Federal matching only in the case of costs for transportation within the State and such other costs as are specifically allowed by the Secretary in regulations.

The Secretary may waive the requirement for a commission at the request of a State if he determines that the State has in place objective standards for child support obligations, has had a commission or council within the last five years, or is making satisfactory progress toward fully effective child support enforcement.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment eliminating Federal matching for costs.

16. Requirement To Include Medical Support as Part of Any Child Support Order

SECTION 16

Present law

There is no provision in the child support statute that requires State agencies to undertake efforts to include medical support as part of any child support order. On August 4, 1983 the Secretary issued a notice of proposed rule-making proposing to require IV–D agencies to petition to include medical support orders in situations in which coverage is available to the absent parent at reasonable cost.

House bill

The Secretary of Health and Human Services is required to issue regulations to require State agencies to petition to include medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. The regulations must also provide for improved information exchange

between the State IV-D agencies and the medicaid agencies with respect to the availability of health insurance coverage.

Effective date.—On enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees wish to point out that while they have approved a four-month Medicaid extension, as discussed later in this report, the conferees believe the best long run solution to achieving medical insurance coverage for all families is the use of private medical insurance which is or can be made available through a parent's employer.

The conferees direct the Secretary of HHS to examine additional administrative, regulatory and legislative possibilities to fully and vigorously use this private coverage, and report to the Finance Committee and the Ways and Means Committee by January 1, 1986 on actions taken.

17. Increased Availability of Federal Parent Locator Service to State Agencies

SECTION 17

Present law

The Federal statute requires operation by the Federal Government of a Parent Locator Service (PLS) to assist States in locating absent parents. States may use the Federal PLS only after there has been a determination that the absent parent cannot be located through procedures under the control of the State child support agency.

House bill

Repeals the requirement that the States, in effect, exhaust all State child support locator resources before they may request the assistance of the Federal PLS.

Effective date.—On enactment.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

18. Guidelines for Child Support Awards

SECTION 18

Present law

The IV-D statute includes no requirement that States establish guidelines to be considered in determining support orders.

House bill

No provision. (See item on State Commissions.)

Senate amendment

Requires each State to establish guidelines for child support awards within the State. The guidelines may be established by law or by judicial or administrative action. They must be made available to all judges and others who have the power to determine child support awards, but need not be binding upon them. The Secretary must provide technical assistance to the States in establishing the guidelines.

Effective date.—October 1, 1986.

Conference agreement

The conference agreement follows the Senate amendment with a modification making the provision effective October 1, 1987. Although the provision does not require that guidelines for support awards be established before October 1, 1987, States are encouraged to begin their consideration of appropriate guidelines as soon as possible.

19. Availability of Social Security Numbers

SECTION 19

Present law

Child support agencies have access to certain types of information through the Federal Parent Locator Service and the Internal Revenue Service. The Secretary of HHS, through the Parent Locator Service, is authorized to furnish the agencies with the most recent address and place of employment of absent parents. The Secretary of the Treasury is authorized to release certain wage, income tax, and return information to Federal, State and local child support enforcement agencies if needed by such agencies for purposes of the child support enforcement program. Neither Secretary is authorized to release the absent parent's social security number.

House bill

No provision.

Senate amendment

Provides for the disclosure of the absent parent's social security number to child support agencies both through the Parent Locator Service and by the Secretary of the Treasury.

Conference agreement

The conference agreement follows the Senate amendment.

20. Extension of Medicaid Eligibility When Support Collection Results in Termination of AFDC Eligibility

SECTION 20

Present law

When a family loses eligibility for AFDC as a result of child support collections, it also loses categorical eligibility for medicaid.

House bill

If a family loses AFDC eligibility as the result (wholly or partly) of increased collection of support payments under the IV–D program, the State must continue to provide medicaid benefits for 4 calendar months beginning with the month of ineligibility.

(The family must have received AFDC in at least three of the six months immediately preceding the month of ineligibility.)

Effective date.—On enactment.

Senate amendment

Retains present law.

Conference agreement

The conference agreement follows the House bill, but with an amendment limiting the application of the provision to families becoming ineligible for AFDC before October 1, 1988.

21. Collection of Past-Due Support From Federal Tax Refunds

SECTION 21

Present law

Upon receiving notice from a State child support agency that an individual owes past-due support which has been assigend to the State as a condition of AFDC eligibility, the Secretary of the Treasury is required to withhold from any tax refunds due that individual an amount equal to any past-due support. The withheld amount is sent to the State agency, together with notice of the taxpayer's current address. The Secretary of the Treasury is required to issue regulations, approved by the Secretary of Health and Human Services, prescribing the timing and content of notices by the States. States are required to reimburse the Federal Government for the cost of the procedure.

The amount currently being charged the States for each case that is being offset is $11.00. This will be reduced to $3.20 for cases processed in 1985.

"Past-due support" is defined as the amount of a delinquency determined under court order or order of an administrative process established under State law for support and maintenance of a child or a child and the parent with whom the child is living.

Under present procedures, the State agency, or, at the option of the State, the Federal Office of Child Support Enforcement, must give an individual prior notice that the offset will occur, and the individual may contest the action with the State agency. In addition, the Internal Revenue Service must provide the taxpayer with

a notice, concurrent with the offset, of the amount of the offset and of the State to which it has been paid.

House bill

No provision.

Senate amendment

Extends the present system for withholding past-due support from Federal tax refunds to absent parents of non-AFDC minor children, as follows:

State child support agencies will be required to submit to the IRS for withholding, the names of absent parents who owe past-due support to whom the withholding procedures may be applied. These must be limited to cases where there are arrearages of $500 or more, and which, on the basis of current payment patterns and the enforcement efforts that have been made, the State agency determines are unlikely to be paid before the offset occurs. In addition, States may limit arrearages which they submit to the IRS to amounts that have accrued since the State undertook to collect support for the non-AFDC family.

Once a State agency has determined that the name of an absent parent will be submitted to the IRS, it must send notice to that absent parent of the proposed offset, including the procedures to be followed in contesting the proposed offset. The notice must also inform the absent parent and spouse, if any, of the procedures which may be taken to protect the unobligated spouse's portion of the refund.

If, on the basis of the information provided by the State child support agency (through the Department of Health and Human Services), the IRS determines that an income tax refund must be withheld to pay past-due support, the IRS must provide the taxpayer with notice, concurrent with offset, of the amount of the offset and of the State to which it has been paid so that any questions which the taxpayer may have about the child support obligation may be addressed to the appropriate State child support agency. The IRS notice must also inform the taxpayer that, in the case of a joint return where both spouses had income the spouse who is not liable for the past-due obligation may file an amended tax form to recover the unobligated spouse's portion of the amount that was withheld. If the unobligated spouse subsequently files an amended return to secure his or her proper share of a refund, the IRS must pay that share to the individual.

Amounts of refunds withheld by the IRS will be sent to the State child support agency that submitted the name for offset, so that they can in turn be paid to the family that is owed the past-due support. It is expected that generally the State agency will make prompt payment to the families involved. However, if the IRS informs the State agency that the absent parent has filed a joint return, and therefore the possibility exists that the unobligated spouse may file an amended return to claim his or her share of the return, the State agency will be authorized to delay payment to the family that is owed past-due support for a period of up to six months, or (if earlier) until the unobligated spouse has been paid the proper share of the refund.

The IRS may charge the State a fee of up to $25 for processing each non-AFDC case submitted. The State may in turn require that a fee of up to $25 be paid by the family requesting offset. This user fee is intended to defray costs incurred by the IRS and the State in processing the non-AFDC cases and in meeting the notice requirements.

Effective date.—Effective for refunds payable after December 31, 1985.

Conference agreement

The conference agreement follows the Senate amendment, but limits the provision to apply to refunds payable after December 31, 1985 and before January 1, 1991.

22. Wisconsin Child Support Initiative

SECTION 22

Present law

Although the Social Security Act allows the Secretary to waive certain requirements of the AFDC program for purposes of demonstration programs, there may not be authority broad enough to allow a State to restructure substantially its AFDC and child support programs.

The State of Wisconsin is planning to undertake a major experiment which involves both its child support enforcement and AFDC programs.

House bill

Requires the Secretary of HHS to approve requests from the State of Wisconsin for waivers of Federal IV-D (CSE) and IV-A (AFDC) requirements that will allow the State to continue to receive Federal CSE and AFDC matching funds while testing modifications in both programs contained in its "Child Support Initiative," if the requested waivers meet the conditions summarized below.

The purposes of the requested waiver authority should be: (a) to improve the financial well-being of children; (b) to obtain flexibility in the manner and procedures to be used in providing IV-D CSE assistance to single parent households in gaining adequate child support, including the provision of IV-D services whether or not a family formally applies for such services; (c) to permit the State to test alternative IV-D and AFDC procedures in different sub-state areas without being out of compliance with "Statewideness" requirements; (d) to permit the State to establish alternative arrangements for the payment of child support in order to reinforce parental responsibility for the child; and (e) to permit the State to use Federal AFDC matching funds to insure that there is an adequate level of support when the contribution of the absent parent, by itself, is inadequate (including the provision of such support to non-AFDC families without requiring them to reduce income and assets to the prevailing AFDC eligibility level).

The alternative IV-D CSE and AFDC procedures or modifications allowed under the requested waivers must not disadvantage

children in need of child support or make children in the State worse off financially than they would be without the modifications in the State AFDC and IV-D programs. The State may receive no more Federal AFDC funds than it would without the modifications.

Effective date.—October 1, 1983.

Senate amendment

As under the House bill, requires the Secretary of HHS to waive requirements of the AFDC and child support programs for the State of Wisconsin under specified conditions. The State may test its initiative in any county or counties, or throughout the State.

To qualify for waiver, the State must provide a complete description of the program which it will operate in place of the AFDC and child support programs, and make the description readily available to the public throughout the State. The Governor must provide assurances that, under the initiative, assistance will be provided to all children in need of financial support, and the State will continue to operate an effective child support enforcement program.

In addition, the State must agree that, during the period of the test, it will continue to determine eligibility for medical assistance under the State plan approved under title XIX of the Social Security Act, applying the criteria (insofar as may be applicable to members of families with dependent children affected by the initiative) in effect under its AFDC State plan approved for the month preceding the month in which the initiative becomes effective, except that the criteria shall be considered to have been changed to the extent necessary to comply with future changes in Federal law or regulations.

The State must specify measurable performance objectives, submit an evaluation plan, and agree to submit interim and final evaluations and reports, as the Secretary may require. In addition, the State must agree to obtain, at least once every two years, a financial and compliance audit of the funds it receives under this provision, and to obtain, after the initiative is ended, a final audit which must be made public.

The State's proposal must describe in detail how the initiative will affect children and families, with specific reference to the principles for calculating benefits and establishing and enforcing child support obligations. The description must also include estimates of cost and program effects and provide other relevant information necessary for the Secretary to determine whether the financial well-being of children and their families will be adversely affected by the initiative.

In general, the Federal payment which Wisconsin will be eligible to receive to operate its initiative will be equal to the State's proportionate share of the amount paid to all States for: (1) AFDC benefit costs; (2) AFDC administrative costs; (3) child support administrative costs; and (4) child support incentive payments.

The State's proportionate share of each amount listed above shall be the portion of each amount that bears the same ratio to such amount as the corresponding amount advanced to the State for quarters in fiscal years 1984 through 1986 bears to the total corresponding amount advanced to all other States for such quarters.

The initiative proposed by the State and the related requested waivers will become effective within 120 days after submission unless the Secretary determines that the financial well-being of children in the State will be adversely affected by the initiative. The Secretary must notify the State that, effective with the beginning of the following quarter (or later at the option of the State) the State may operate its initiative instead of its AFDC or child support programs in the areas designated by the State.

The State may cease the initiative and return to the administration of the regular AFDC and child support programs upon provision to the Secretary of at least 3 months notice. The Secretary may terminate approval of the initiative upon the giving of 3 months advance notice to the State if it is determined that the financial well-being of children in the areas where the initiative is in effect would be better achieved by operating the regular AFDC and child support programs.

Effective date.—For quarters beginning after September 30, 1986, and ending before October 1, 1994.

Conference agreement

The conference agreement follows the Senate amendment.

23. Sense of the Congress Language

SECTION 23

Present law

No provision.

House bill

No provision.

Senate amendment

Incorporates Senate Concurrent Resolution 84, which makes certain findings with respect to child support enforcement, and sets forth as the sense of the Congress that—

(1) State and local governments must focus on the vital issues of child support, child custody, visitation rights, and other related domestic issues that are properly within the jurisdictions of such governments;

(2) all individuals involved in the domestic relations process should recognize the seriousness of these matters to the health and welfare of our nation's children and assign them the highest priority; and

(3) mutual recognition of the needs of all parties involved in divorce actions will greatly enhance the health and welfare of America's children and families.

Conference agreement

The conference agreement follows the Senate amendment.

24. Limitation on Discharge in Bankruptcy of Child Support Obligations

SECTION 24

Present law

In general, the Bankruptcy Act does not allow discharge in bankruptcy from any debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, if it is in connection with a separation, divorce decree, or property settlement agreement. However, support obligations that are assigned generally may be discharged, unless they are assigned to the State in connection with the collection of support by the IV-D agency on behalf of an AFDC recipient. In addition, a support obligation arising from a paternity determination is usually not protected from discharge in bankruptcy because it does not meet the requirement that it be in connection with a separation, divorce decree, or property settlement agreement.

House bill

No provision.

Senate amendment

Amends the Bankruptcy Act to provide that obligations that have been assigned to the State as part of the IV-D enforcement process may not be discharged in bankruptcy, regardless of whether they are on behalf of an AFDC family or non-AFDC family. In addition, the amendment provides protection against discharge in cases where support is established on the basis of a paternity determination.

Conference agreement

The conference agreement follows the House bill.

Dan Rostenkowski,
Harold Ford of Tennessee,
Pete Stark,
Donald J. Pease,
Robert T. Matsui,
Wyche Fowler, Jr.,
Barbara B. Kennelly,
Barber B. Conable, Jr.,
Carroll Campbell,
W. Henson Moore,
William Thomas of California,
Managers on the Part of the House.

Robert Dole,
Bob Packwood,
William L. Armstrong,
Chuck Grassley,
Russell B. Long,
Daniel Patrick Moynihan,
Bill Bradley,
Managers on the Part of the Senate.

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