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POLICY BRIEF November 1999

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A Summary of the “Children First Child Support Reform Act of 1999” and the “Fathers Count Act of 1999”

This Policy Brief will summarize the “Children First Child Support Reform Act of 1999” and the “Fathers Count Act of 1999.” Although these bills did not become law this legislative session, they are likely to be contended with in similar forms in future sessions. This brief is intended to clarify the actual provisions of each bill in order to facilitate a clear understanding of the specifics in future debates on such provisions.

The “Children First Child Support Reform Act of 1999,” sponsored by Senator Herb Kohl, was referred to the U.S. Senate Committee on Finance but was not acted on in committee before Congress adjourned. The “Fathers Count Act of 1999” was passed by the U.S. House of Representatives by a vote of 328 to 93, but the Senate did not take action on it. Many of the provisions not directly related to the fatherhood grants, but added to this bill, were subsequently added to the final omnibus budget bill, H.R. 3194, which was passed on November 19, 1999.

“Children First Child Support Reform Act of 1999”

This bill, S. 1036, was introduced in the Senate by Senators Herb Kohl (D-WI) and co-sponsors Christopher Dodd (D-CT) and John Rockefeller (D-WV) on May 13, 1999.

The bill would give states the option, and provide them with incentives, to pass through any amount of child support collected on behalf of families receiving welfare, rather than to retain the child support as repayment of welfare costs. States choosing the pass-through option could disregard the amount of child support received by a family in determining *eligibility* for assistance, and would have the option of disregarding any portion of the child support in determining the *amount* of assistance.

As an incentive for states to elect both a pass-through and disregard of the child support collected, states that disregard at least 50 percent of the child support collected when determining assistance amounts

would be released from paying the federal share of child support. Passed-through child support could also be claimed for purposes of meeting a state's TANF Maintenance of Effort requirements.

The bill would allow for a range of state options. States could elect to pass child support through to a family, but then count the child support in determining the family's assistance amount. In this case, the family would not receive any additional income, since the passed through child support payments would reduce the assistance grant dollar for dollar. Proponents of the bill included this option in part to give families the benefit of knowing that the father is contributing to the family. A state choosing this option would not qualify for the release from payment of the Federal share of child support.

More significantly, the bill would allow states to pass through the entire amount of child support paid and to disregard this full amount in determining a family's cash assistance grant, and to be released from the obligation to pay the federal government its share of the collected child support out of state funds.

The "Fathers Count Act of 1999."

This bill, H.R. 3073, was sponsored by Representatives Nancy Johnson (R-CT) and Benjamin Cardin (D-MD) in the House. The bill would establish \$140 million for grants to fatherhood programs, with the requirement that programs promote marriage and successful parenting, and help fathers and their families leave welfare. Preference would be given to projects that obtain commitments from child support agencies to cancel arrearages for post-welfare participants and that enroll participants prior to or shortly after the birth of their child. It would also fund three national fatherhood initiatives, adjust Welfare-to-Work eligibility requirements to allow more flexibility to serve a broader range of participants, ease the severity of penalties that would otherwise be applied to states that fail to meet their state disbursement unit deadlines for child support, and allow the Secretary of Education to pursue defaulted student loans using data from the National Directory of New Hires.

The following is a summary of some of the key provisions related to fatherhood contained in the bill.

Grants to Fatherhood Programs (Title I)

Primary among the bill's provisions would be grants to fatherhood programs totaling \$140 million, or \$35 million for each fiscal year from 2002 through 2005.

Projects would be funded directly by the Secretary of the Department of Health and Human Services (HHS), based on the recommendation of a "Fatherhood Grants Recommendations Panel" created by the bill¹. The bill establishes two panels that are identical except for the timing of their terms, which will have the effect of allowing the next administration to appoint the second panel. Each panel will distribute \$70 million in grants.

Of the funds remaining after projects are funded according to the preferences described below, the bill establishes a minimum of 75% of the entities that must be awarded to projects that are nongovernmental (including faith-based), or to governmental organizations that will pass through 50% of the grant to such nongovernmental organizations. Since the amount allocated to projects that fit the preferences is not specified, the actual percentage of funding that would fall under this requirement is also not specified. The remaining 25% of this portion is not obligated by any criteria.

Funding Criteria. In order to be recommended for funding under this section, a project must be designed to:

1. Promote marriage
2. Promote successful parenting
3. Help fathers and their families avoid or leave cash welfare

In addition to the above primary purposes of the grants, projects would be given preference in funding if they are designed to:

1. Increase child support payments by:
 - o Obtaining a written commitment from the state IV-D agency to voluntarily cancel child support arrearages owed to the state by the father *as long as the father provides support to the family such as maintaining regular child support payments or living with his children.* (An earlier version of the bill would have made the arrearage cancellation contingent on the father maintaining child support payments or maintaining a marital relationship with the mother of the child.)

The language leaves open the option for the state to cancel arrearages for all families in the state or only for those who participate in the funded projects. As projects and states implement this provision, many of the policies would need to be specified such as: how such a cancellation would apply to participants when they leave a program or miss a child support payment, how the program or state would monitor the father's residence with his children, or how the cancellation would apply to parents with joint physical custody of their children.

- o Obtaining the agreement of the state in which the project will be carried out to exercise its authority, granted in this bill, to distribute the tax refund intercept to the family.
 - o Helping the father improve his credit rating.
 - o Helping the father arrange and maintain a consistent schedule of visits with his children.
2. Cooperate with the local or state Workforce Investment Board, IV-D agency (child support) or IV-E agency (foster care).
 3. Enroll a high percentage of project participants within 6 months before or after the birth of the child. For these fathers, the cancellation of arrearages would be limited in its impact, since they would be unlikely to have accrued significant arrearages for the child yet.
 4. Provide a clear description of methods that will be used to recruit fathers.

An earlier version of the bill provided that expenditures on fatherhood programs under this bill could not count toward TANF Maintenance of Effort (MOE) determinations (the amount that a state is credited for spending funds on TANF activities). This prevented expenditures under this bill from replacing those for participants eligible for TANF. The current bill does not prevent states counting expenditures on fatherhood programs under this bill from counting them toward their TANF MOE requirement. In fact, the bill includes a "Sense of the Congress" that states may use TANF funds to promote fatherhood activities of the type described in the bill.

Project Eligibility. Originally, the bill limited eligibility for project services to:

1. Fathers with a child who is currently or within the past 24 months has been a recipient of public assistance.
2. Fathers, including expectant or married fathers, whose income falls below 150% of the poverty line.

In its most recent version, the bill includes a third category of eligibility:

3. Mothers, expectant mothers and married mothers on the same basis as fathers, expectant fathers, and married fathers. ²

Tax Intercept Pass-Through. The bill would also allow (not mandate) states to pass through child support arrearages collected through the federal income tax refund intercept of noncustodial parents but only for families that no longer receive cash public assistance and that include a child of a participant in one of the projects funded under this section of the bill. Under current law, child support arrearages collected through the tax intercept must be used first to reimburse the costs of public assistance. The bill would forgive the federal share of the tax intercept funds and reimburse the state for its costs in passing through the funds to the family.

National Fatherhood Projects (Title II)

Title II would provide grants to three types of national fatherhood initiatives. The bill requires the Secretary of Health and Human Services to award the grants according to very specific criteria. The three initiatives are:

1. A National Clearinghouse would be established within a nationally recognized fatherhood promotion organization with at least 4 years experience with:
 - a. Designing and disseminating a national public education campaign, including the production and successful placement of television, radio, and print public service announcements that promote the importance of responsible fatherhood.
 - b. Providing consultation and training to community-based organizations interested in implementing fatherhood outreach, support, or skill development programs with an emphasis on promoting married fatherhood as the ideal.
2. Two “nationally recognized nonprofit fatherhood promotion organizations” with experience in:
 - a. Designing and conducting programs meeting the purposes of the clearinghouse (including the promotion of marriage).
 - b. Simultaneously conducting these programs in more than one major metropolitan area.
 - c. Coordinating these programs with local government agencies and private, nonprofit agencies, including child support agencies and Workforce Investment Boards.
3. One of these initiatives would be required to have “extensive experience in using married couples to deliver program services in the inner city.”

Each of the three initiatives would receive \$5 million.

Sharing of Child Support Data with Outside Agencies

There are four provisions of the bill that extend child support data to outside agencies:

1. Under Title I, TANF and child support agencies are given the authority to share the name, address, telephone number and any available identifying TANF case number information of fathers for purposes of contacting the fathers to participate in the project.
2. Under Title III, Welfare-to-Work provisions, Private Industry Councils (PICs) could access names, addresses, telephone numbers and identifying TANF case number information for noncustodial parents, based on information provided by the child support agency from applicants and recipients of public assistance. The information could be used by the PIC to contact noncustodial parents residing in the service delivery area of the PIC regarding their participation in the Welfare-to-Work Program.

3. One of the financing mechanisms established by the bill would allow for the use of information from the national New Hire database by the Secretary of Education in order to assist in collection of defaulted student loans and grants. The Secretary of Education may, in turn, disclose such information to: a guaranty agency holding an obligated student loan; a contractor or agent of the guaranty agency; a contractor or agent of the Secretary of HHS; or the Attorney General.
4. State unemployment insurance programs could have access to data from the National Directory of New Hires child support database in order to recover overpayments of unemployment compensation.

Welfare-to-Work Program Eligibility (Title III)

The bill would address the complicated eligibility criteria of the Welfare-to-Work

Program with more flexible and expanded criteria. The following groups would be eligible for Welfare-to-Work Program services:

- Custodial parents who have received TANF for at least 30 months (whether or not consecutive)
- Custodial parents who are within 12 months of losing eligibility for TANF
- Custodial parents with income below the poverty line who are not on welfare
- Noncustodial parents who:
 1. Are unemployed, underemployed, or having difficulty paying child support.
 2. Have a minor child who: is or has a custodial parent who has received TANF for at least 30 months or is within 12 months of losing eligibility for TANF; is eligible for or receiving TANF assistance; has received TANF assistance in the preceding 12 months, or is eligible for or receiving food stamps, SSI, medical assistance or child health assistance.
 3. Comply with an oral or written personal responsibility contract with the entity providing Welfare-to-Work services and the state IV-D agency containing a commitment by the noncustodial parent to: cooperate in the establishment of paternity and a child support order; cooperate in the payment of child support³; participate in employment or related activities which, for participants under 20 years old, could include education to complete a high school or equivalency degree⁴, and a description of the services to be provided to the noncustodial parent.
- Children, between 18 and 25 years of age, who are aging out of foster care
- Assistance recipients with significant barriers to self-sufficiency, according to criteria established by the local PIC

Title III would also add vocational training or job training as allowable Welfare-to-Work activities, but an individual's participation in these activities would be limited to six months.

Additional Provisions

Other provisions of the bill include:

- Evaluations. The Secretary of HHS would grant \$6 million for the evaluation of the projects funded by the bill; random assignment evaluations would be preferred. The bill also increases funding for the Census Bureau to collect data to evaluate welfare.
- Immigration. Nonimmigrant aliens would be excluded from admission to the United States if there is a child support order against them and they owe \$5,000 or more, with some exceptions allowed by waiver, payment or arrangements to lift the ban. INS agents are given authority to serve paternity establishment and child support papers.

- State Disbursement Unit (SDU) Penalty Relief. The SDU is a single state unit for the disbursement of collected child support which states are required to establish and operate under the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA).

Without SDU penalty relief, the Secretary of HHS would be forced by current legislation to disapprove a child support enforcement state plan (which would in turn result in the disapproval of the state TANF plan) if the state was not in compliance with establishing the SDU. Several states are at risk of these severe penalties. This provision would allow states to submit corrective compliance plans and receive reduced penalties.

- Elimination of the Welfare-to-Work Bonus. This provision, along with the Secretary of Education's use of the National Directory of New Hires, represents the financing mechanism for the bill. The provision would eliminate the Welfare-to-Work bonus for states with high performance.
- Charitable Choice. This provision would allow states to contract with charitable, religious or private organizations to deliver the services funded by the bill, adopting the same language as PRWORA. Rep. Chet Edwards (D-TX) offered an amendment that would have prevented funds from going to pervasively sectarian groups, but the amendment was defeated by a vote of 238 to 184.

NOTE: The final budget agreement, H.R. 3194, includes Welfare-to-Work Program Eligibility changes, as well as a provision providing State Disbursement Unit penalty relief, exactly as contained in the "Fathers Count Act of 1999."

¹ The panel would consist of members appointed by the Secretary of HHS, the Secretary of Labor, the House Ways and Means Committee Chairman and ranking minority member, and the Chairman and ranking minority member of the Senate Committee on Finance. To be appointed, members must have experience in programs for fathers, the poor, children, program administration, or program research.

² The House rejected an amendment offered by Rep. Patsy Mink (D-HI) that would have changed the title of the bill to the Parents Count Act, changing any references from fathers to parents in the text of the bill. As currently written, the bill allows for services to parents through the added eligibility category described above, but maintains references to fathers throughout the bill and, by defining services that are applicable exclusively to fathers, leaves some question as to how mothers would take advantage of the funded projects. This summary will refer to fathers in order to follow the language of the bill as currently written.

³ Under current law, a noncustodial parent who cannot pay a current child support order may at any time seek a modification of the order. The personal responsibility contract would not obligate the IV-D agency to grant such a modification, however.

⁴ While TANF allows states to require Individual Responsibility Agreements as part of eligibility for program services, this bill would represent a federal mandate to require all Welfare-to-Work participants to sign the similar Personal Responsibility Contract.