

**CENTER ON FATHERS, FAMILIES, AND PUBLIC POLICY**  
23 N. Pinckney St., Suite 210, Madison, Wisconsin 53703  
TEL 608.257.3148 FAX 608.257.4686  
**WWW.CFFPP.ORG**

## **POLICY BRIEFING**

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### **State Child Support Bills Would Increase Criminal Penalties for Nonpayment**

Two states are considering legislation that would impose tougher penalties on noncustodial parents for the nonpayment of child support.

In *Alaska*, current law makes nonpayment of child support a misdemeanor with a maximum penalty of 1 year in prison and/or a \$1,000 fine. HB 514 would:

- Make criminal nonpayment of child support a felony punishable by a sentence of up to five years for a child support debt over \$10,000, or if a parent fails to make a child support payment for a period of at least two years, or has a previous misdemeanor conviction.
- Make aiding the nonpayment of child support a felony subject to the same penalties as nonpayment. Aiding nonpayment could include withholding information from the child support enforcement agency or, as an employer, failing to provide information regarding the availability of health insurance coverage for the parent's children.
- Allow Child Support Enforcement Division investigators to be armed.

The bills were passed out of the state House Judiciary Committee on February 27.

In *Michigan*, the House voted 93-13 on March 17 to approve HB 5369 and other related bills that would:

- Require that parents who owe between \$3,000 and \$20,000 face a felony with a penalty of up to five years in prison and a \$10,000 fine. The same penalties would apply to parents who have made no payments for a period of three years.
- Increase the penalty to a maximum of 10 years in prison and a \$15,000 fine if payments have not been made in five years or if the debt is at least \$20,000. Judges are given the option of exceeding the maximum fine by applying a fine to the parent of three times the amount owed if this results in a fine that is over the maximum.

Another bill in the package of child support bills, HB 5371, was approved 72-33 and would allow courts the option of suspending a child support order until release when considering an incarcerated parent's request for a child support modification. In deciding the modification request for the period of incarceration, and upon the parent's release, the court could order child support for the period of incarceration based on pre- or post-incarceration earning capacity.

The bills will now go to the state Senate for consideration.

## TANF Reauthorization Taken Up in Senate

The Temporary Assistance for Needy Families (TANF) program was again extended in its current form for a period of three months by the Senate last week. The House is also expected to vote for an extension by March 31, without which TANF will expire. The extension will give Congress until June 30 to reauthorize TANF. Such short-term extensions have typically kept the current program in place. However, Congressman Herger (R-CA), chairman of the House Ways and Means Committee, has expressed his intent to propose policy changes that would impose stricter caseload reduction credits and that would include funding for marriage promotion. Given the tight timeline to extend the program, these proposals may be dropped.

Apart from the short-term TANF extension, the TANF reauthorization bill is being considered on the Senate floor this week, but many issues remain unresolved. One key amendment offered by Senators Snowe (R-ME) and Dodd (D-CT) would add \$6 billion in funding to cover some of the additional child care costs that would result from increased work requirements.

An excellent way to stay updated daily on reauthorization activities is to join the poverty list-serv, administered by the NOW Legal Defense and Education Fund. To join this group, go to <http://groups.yahoo.com/group/poverty/>.

## States Will Bear Burden of Shifts in Federal Funding

As Congress considers proposals for social services this session, many of the proposed changes to current laws and programs would remove the federal government from its funding and oversight roles. Two websites are tracking the programs that are most affected by this shift:

- *Block Grants*. Many initiatives for low-income families proposed by the Bush Administration would create block grants while at the same time reducing federal spending and federal standards or protections. Block grants are created when federal programs are funded in one lump sum that is given directly to states with few restrictions, but with a cap on the funding level. The Coalition on Human Needs is tracking block grant proposals, and has a regularly-updated chart that provides concise information on the current structure, the proposed changes, the status of proposals and their impact, for each affected program. The programs currently subject to block grant proposals include Head Start, Unemployment Insurance, Medicaid and SCHIP, Child Welfare, Section 8 Housing, Transportation (Job Access and Reverse Commute Program), Food Stamps, and Job Training. See <http://www.chn.org/pdf/blockgrantgrid.pdf>.
- *Unfunded Mandates*. A recent project of the National Conference of State Legislatures (NCSL) tracks proposed federal legislation and its financial impact on states. The *Mandate Monitor* keeps tabs on unfunded federal mandates, or federally required services or policies to be implemented by states that provide no funds to support the implementation. According to NCSL, the *Unfunded Mandates Reform Act of 1995* has not prevented many forms of unfunded mandates, which include changes to entitlement programs and the No Child Left Behind Act. Such mandates are expected to result in a gap of \$34 billion for fiscal year 2005, and cost states 7% of their general revenue funds. See <http://www.ncsl.org/programs/press/mandatemonitor.pdf>.

## **Census Miscounts Prisoners To Detriment of Urban Areas**

PrisonersoftheCensus.org is a special project of the Prison Policy Initiative that documents the current practice of using the Census to count U.S. prisoners as residents of the towns that host prisons rather than of their actual non-prison residence. Since minorities and urban residents are overrepresented in prison populations and prisons are most often located in rural towns, this practice results in a shift of power and political representation to rural areas when legislative boundaries are redrawn. The practice is particularly harmful given the soaring level of incarceration and laws that in 48 states disenfranchise felons. For more information on the website and project, see [www.prisonersofthecensus.org](http://www.prisonersofthecensus.org).

## **Child Support Bill Introduced in Senate**

Senator John Cornyn (R-TX) has introduced S.2194, the *Child Support Improvement Act of 2004*, co-sponsored by Senator Joseph Lieberman (D-CT). The bill contains child support provisions, many of which have been introduced in child support and/or welfare reauthorization proposals in previous legislative sessions, along with some new provisions. If TANF is not reauthorized during this session, this bill could provide a vehicle for child support legislation to proceed through Congress on its own. The bill would:

- Provide incentives to states to pass through child support payments made on behalf of families currently receiving welfare. States could pass through up to \$400 in child support paid for one child and \$600 for families with two or more children. If the state also disregarded the amount of child support passed through to the family when determining the family's TANF grant, the state would not be required to pay the federal government its share of the collected child support that was passed through. This pass-through incentive is similar to other child support proposals previously introduced but not passed, in that states could not use TANF funds to finance the pass-through. A child support distribution bill introduced by Senators Snowe (R-ME) and Kohl (D-WI) last year would have allowed states to use TANF funds to finance a pass-through.
- Place a ban on the practice of recovering birth costs from the noncustodial parent when the custodial parent receives Medicaid benefits to cover the cost of the birth. The ban is consistent with the recommendations made by the Medical Child Support Working Group in their June 2000 report on medical support, *21 Million Children's Health: Our Shared Responsibility*. Publications providing further information on the implications of this policy are also available on our website at: [www.cffpp.org](http://www.cffpp.org).
- Allow the state of Texas to continue its current practice of automatically monitoring and enforcing child support payments when the custodial parent is not a recipient of welfare benefits. The state may do so with or without a written application for such services from the custodial parent.
- Make changes to the interstate enforcement rules that govern child support enforcement across state lines.

## **Federal Foster Care Financing Restrictions Prevent States from Meeting Federal Performance Criteria**

A recent report funded by the Pew Commission examines the results of a federal review of state child welfare systems. The report, *The Foster Care Straitjacket: Innovation, Federal Financing and Accountability in State Foster Care Reform*, was completed this month by Fostering

Results. Among the findings:

- Every state that was reviewed using criteria established in Public Law 105-89, *The Adoption and Safe Families Act of 1997*, failed to achieve compliance on enough indicators to meet the federally mandated performance expectations.
- On two indicators related to permanence and child well-being, none of the states were in compliance. States that fall short of meeting performance targets risk losing a portion of the more than \$4.6 billion in annual federal funding for children in foster care.
- The inability of states to meet performance criteria is attributed to the fact that the interventions necessary to do so are often not financially supported by the federal government in spite of the criteria being set at the federal level. • One common set of problems documented by the federal review was felt to reflect legitimate limitations of child welfare service delivery: securing timely permanence for children who enter foster care and minimizing the number of times a child is moved from placement to placement.
- Federal funding restrictions have prevented states from implementing service interventions that would help to meet federal standards. In fact, some of the most promising approaches have required child welfare jurisdictions to find resources outside of federal funding for foster care services provided to children removed from their home.
- States face barriers created by federal financing restrictions that provide subsidies for adoptions but not for relative caregivers who could become permanent caregivers but who are reluctant to adopt because it would require the termination of the parental rights of a family member. Several states have pursued federal waivers to test the effect of providing federal subsidies for permanent guardianship, allowing the transfer of children from state custody and reducing costs for both state and federal government. In the absence of a waiver, states are unable to pursue this option.

The report is available at: <http://www.fosteringresults.org/>.