

True Equality Network

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Report on the Disincentives to the Protection of Marriage, Military Personnel Retention and Recruitment, Resulting from Abuses by the States of the Child Support Performance and Incentive Act (CSPIA)

Equal Protection Under the Law is True Equality

Document Instructions

NOTE:

It is best to review this document in electronic format on a computer with connectivity to the Internet.

The formulas and references contained in this document link to a variety of sources. These include the United States Codes via Cornell Law Library online (which has more extensive hyperlinking to the US Code and CFR than the Library of Congress' Thomas site provides) and various Federal Government and media Websites. In order for them to make complete sense you will need to expand the referenced laws, tables, charts, and reference documents then complete the computations for a given state.

The construction of the Internet links in this document permit the viewer to refresh a single instance of their Internet web browser with each subsequent link selection. These links appear as underlined text in printed copies and faxes.

Document Abbreviations

AABB = American Association of Blood Banks
Census Bureau = U.S. Department of Commerce Economics and Statistics
CP = Custodial Parent
CPS = Child Protective Services
CS = Child Support
CSE = Child Support Enforcement
CSPIA = Child Support Performance and Incentive Act
DV = Domestic Violence
DHHS = U.S. Department of Health and Human Services
DoD = U.S. Department of Defense
FASR = The Institute for Family and Social Responsibility
IV-A = Welfare Incentives
IV-D = Child Support Collection Incentives
IV-E = Foster Care Incentives
NCSEA = National Child Support Enforcement Research Clearinghouse
NCP = Non Custodial Parents
OCSE = Department of Health and Human Services, Office of Child Support Enforcement
SCRA = Servicemembers Civil Relief Act of 2003
TANF = Temporary Aid to Needy Families
TRO = Domestic Violence Temporary Restraining Order
VAWA = Violence Against Women Act

Analysis of Abuses of the Child Support Performance and Incentive Act (CSPIA)

Introduction

This is an assessment of one of the direst areas of societal collapse of our times, the destruction of marriage, and the family unit. The abuses of CSPIA by our states through their family law courts and Child Support (CS) systems, coupled with many of the other social policies results in the effect of government subsidizing the breakdown marriage and eventual collapse of the family. Despite the best of intentions, CSPIA serves as the primary tool used by the states to gain Federal incentive revenues through promoting single-parent families, resulting in the decay of the cornerstone of our society, marriage and intact, functioning families. Despite the best of efforts and intentions, in 2005 our nation saw the highest level of out-of-wedlock births in our history, child support arrearages are spiraling out of control, our Military missed its recruiting goals by almost 50% and our divorce rate remains at near record levels.

We know through social science and population studies of our numerous societal maladies, fatherless families are one of the most destructive arrangements for children and our society. In a prior report, through testimony by Bill Wood and Jay Gell of the Children's Legal Foundation, Charlotte, North Carolina, to the United States House of Representative, Ways and Means Committee, hearings on Child support and Fatherhood proposals, [Hearing 107-38, June 28, 2001](#), it has been firmly established that,

"Father absence, a byproduct of divorce, illegitimacy, and the erosion of the traditional family, is responsible for; filling our prisons, causing psychological problems, suicide, psychosis, gang activity, rape, physical and sexual child abuse, violence against women, general violence, alcohol and drug abuse, poverty, lower academic achievement, school drop-outs, relationship instability, gender identity confusion, runaways, homelessness, cigarette smoking, and any number of corrosive social disorders."

CSPIA uses a very complex set of calculations with the intended design to be incentives for the states to collect CS and to promote a number of collateral issues, such as marriage. What this report indicates are that most of the states' practices actually promote and encourage the systemic destruction of marriage, abuses of parents, fraud in order to maximize their revenues of the incentive programs (while actually falling short of meeting the actual CSPIA requirements) through the creation of fatherless households and abuses of the resulting Non Custodial Parents (NCP).

The states' abuses of CSPIA -- operated under the guise of the "best interests of the children" -- are subsidizing the most destructive system to children in our nation's history. The states' CS systems have evolved to subsidize single-mother households at the expense of their children and our society. They have supported the destruction of marriages for the purpose of financial gain of the states and the financial enrichment of those professionals; such as lawyers, psychologists, caseworkers, who facilitate the exacerbation of this situation, as well as child support recipients and many others.

The examples in this report are based on various states over a 10-year period. The surveys and study data uses samplings from; Alaska, California, Colorado, Florida, Georgia, Maryland, Michigan, New Hampshire, New Jersey, Illinois, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin. Among the violations documented are;

- States fraudulently certifying child support collection practices pursuant to [42 USC 602 et seq.](#), reference [CFR parts for which 42 USC 602 provides authority](#), while there is a substantial amount of public information to demonstrate that these certifications are false.
- Refusing to prosecute paternity fraud with married (or formerly married) spouses so as not to have to report these births at any time as "out-of-wedlock" resulting in artificially maintaining compliance under [42 USC 603 \(a\)\(2\)\(C\)\(iii\)](#) then collecting additional bonus monies for their alleged compliance.
- Failure to prosecute welfare and public assistance recipients for fraud in paternity actions in violation of [42 USC 608 \(a\)\(2\)](#) and [42 USC 608a](#).
- Failure of and/or misrepresentation by the states and their contractors to "ensure that their application results in the determination of appropriate child support award amounts" pursuant to the requirements of [42 USC 667\(a\)](#), following the requirements under [45 CFR 302.56\(c\)\(1\) and \(h\)](#).
- Failure to comply with [45 CFR 303.8](#) to review and adjust child support obligations downward.

In addition to other violations of numerous Federal mandates.

CSPIA Overview

Below are some of the calculations for the Federal incentives paid to the States through CSPIA. These are paid for by the taxpayers based on CS collected, enforcement efforts, and other federal mandates that are subject to repayment by the parents who are separated from their children. Many people refer to this as -- profit for destroying families, then driving both parents bankrupt.

The Child Support Enforcement (CSE) regulations prior to CSPIA were, in effect, paying the states to actively prevent the collection and payment of CS and drive both parents to poverty. The new and improved State incentive calculation ([42 USC 658 \(b\)\(5\)\(C\)](#)) doubles the Foster Care (IV-E) and Welfare (IV-A) collections compared to child support (IV-D) and uses a far more complex compliance calculation set than prior systems. However, upon evaluation it is evident that the states are still paid far more not to collect CS than they are to collect it and by far the most profitable endeavor for the

states is foster/adoption. In other words, the various funding and incentives based on arrearage collections through CSE far outpaces that for on time CS collections.

The federal incentives that are paid to each state, for diligently collecting or not collecting CS, Interest, TANF, and Foster Care, are found using the following overview of the basics of the CSPIA calculation.

[42 USC 658a](#) - Incentive payments to States

$$IP = [IPP / IBAt] * [2 * (TANF + FC + CSx) + CS] * [AP-A + AP-B + AP-C + ((3/4) * (AP-D + AP-E))]$$

WHERE

$$IP = \text{incentive payment} = IPP * IPS$$

-- **IPP** = Incentive payment pool =

- (i) \$422,000,000 for fiscal year 2000;
- (ii) \$429,000,000 for fiscal year 2001;
- (iii) \$450,000,000 for fiscal year 2002;
- (iv) \$461,000,000 for fiscal year 2003;
- (v) \$454,000,000 for fiscal year 2004;
- (vi) \$446,000,000 for fiscal year 2005;
- (vii) \$458,000,000 for fiscal year 2006;
- (viii) \$471,000,000 for fiscal year 2007;
- (ix) \$483,000,000 for fiscal year 2008; and
- (x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the second preceding fiscal year.

-- **IPS** = State incentive payment share = $IBA / IBAt$

---- **IBAt** = sum of the incentive base amounts for all of the States

---- **IBA** = Incentive base amount = $CB * [AP-A + AP-B + AP-C + (3/4) * (AP-D + AP-E)]$

----- **CB** = State collections base = $2 * (TANF + FC + CSx) + CS$

----- **TANF** = IV-A collections

----- **FC** = IV-E collections

----- **CSx** = IV-D collections not required to be assigned (i.e. arrearages sold to private collection companies)

----- **CS** = IV-D collections minus CSx

----- **AP** = Applicable Percentages

----- **AP-A** = Paternity establishment

A% = IV-D or statewide paternity establishment percentage ([Table 51](#))

Calculation: ([Form OCSE-157](#), line 10a + line 16(b + c + d))

----- **AP-B** = Establishment of child support orders

B% = percentage of the total number of cases in which there is a support order ([Table 49](#) / [Table 42](#))

Calculation: ([Form OCSE-157](#) line 2) / ([Form OCSE-157](#) line 1)

----- **AP-C** = Collections on current child support due

C% = current support collected divided by the current support owed ([Table 18](#) / [Table 62](#))

Calculation: ([Form OCSE-34A](#) line 2) / ([Form OCSE-157](#) line 24).

----- **AP-D** = Collections on child support arrearages

D% = number of cases in which payments of past-due child support were received and distributed divided by the total number of cases in which there is past-due child support.

([Table 4](#) + [Table 5](#) + [Table 6](#) / [Table 68](#))

Calculation: ([Form OCSE-34A](#) lines 8A + 8B + 8C + 8D) / ([Form OCSE-157](#) lines 28 + 29)

----- **AP-E** = Cost Effectiveness Ratio Per CSPIA

E = The total of collections forwarded to other states, plus total collections distributed, plus fees retained by other states divided by total current quarter claims and total prior quarter adjustments minus Non IV-D cost. ([Table 23](#))

Calculation: ([Form OCSE-34A](#), lines 5 + 8 + 13) / ([Form OCSE-396A](#), line 9(A + C) - 1b(A + C))

NOTE: Form OCSE-157 [expired 12/31/05](#) and has been replaced with [an online reporting system](#). The form copy was provided for visual reference only. For complete definitions, see the U.S. Department of Health and Human Services (DHHS) page [Glossary of Financial and Statistical Terms](#).

A state can maximize incentive returns from the taxpayers by delaying the collection of CS arrearages (provided CSE gets involved), delaying the payment to the Custodial Parent (CP), under-reporting the states' CS guidelines, denying NCP's downward adjustments, minimizing the time a NCP has with their children, and other manipulations of their operations.

Although the taxpayers are obligated to, pay states incentives and bonuses regarding various aspects of welfare, foster care and adoption related programs, the analysis that follows focuses on CS collection, arrearages, paternity fraud, and the states' statutes, policies, and practices for all of these aspects of their family law operations.

Federal incentives are paid to a state as a function of the state's total collections from the NCP verses number of cases divided by the state's total administration costs. The total of collections forwarded to other states, plus total collections distributed, plus fees retained by other states divided by total current quarter claims and total prior quarter adjustments minus Non IV-D costs divided by total costs, must result in a "Cost-effectiveness" factor that exceeds 2.00 in order for the state to receive their share of the incentives paid by the taxpayers.

1) Incentive Ratio = (Collections/Cases)/Costs

For example: In 2003, the state of North Carolina distributed a total of \$496 million dollars collected from NCPs while expending \$99.4 million dollars in administrative costs. This yielded a CSPIA Cost-Effectiveness Ratio of [4.99](#) for the fiscal year 2003. Please reference the following tables from the Department of Health and Human Services, Office of Child Support Enforcement (OCSE) for specific details for other years and states;

- [1] [Table 14](#) - 2003 - Net Undistributed Collections,
- [2] [Table 10](#) - 2003 - Distributed Non-TANF Collections For Five Fiscal Years,
- [3] [Table 12](#) - 2003 - State Share Of TANF/Foster Care Collections For Five Fiscal Years,
- [4] [Table 7](#) - 2003 - Distributed TANF/Foster Care Collections For Five Fiscal Years,
- [5] [Table 29](#) - 2003 - Total Administrative Expenditures For Five Fiscal Years ([Table 30](#) + [Table 31](#)),
- [6] [Table 3](#) - Total Distributed Collections, FY 2003,
- [7] [Table 19](#) - Total Assistance - Payments To Families, FY 2003 (Sum of Table 19),
- [8] [Table 18](#) - Total - Total Collections Made By States By Method Of Collection, FY 2003 (Sum of Table 18),
- [9] [Table 51](#) - IV-D Paternity Establishment for Two Fiscal Years (PEP), FY 2002 And 2003,
- [10] [Table 51](#) - IV-D Paternity Established 2003,
- [11] [Table 64](#) - Total - Total amount of arrearages due, FY 2002, (Sum of Table 64).
- [12] [Table 64](#) - Total - Total amount of arrearages due, FY 2003, (Sum of Table 64)

This yield a collection to cost ratio of 4.99 in 2003 or:

Incentive percentage = [90%](#).

The incentive percentage described in equation 1) increases with increases in collections over caseload and/or decreases in administrative costs or decreases with decreases in collections over caseload or increases in caseload without increases in collection and/or increases in administration costs.

State Child Support Guideline Fraud

The most direct ways a state can maximize their CSPIA returns is by increasing the number of NCPs obligated to pay CS (which is in direct conflict with marriage incentives that payout considerably less) or by increasing the average amount their NCP's pay, through various methods. States adopting an outrageous CS guideline may also serve to entice a dependent parent to divorce the family's breadwinner. Moreover, the new federal legislation that entices CPs who filed for welfare to get married again may in fact just be providing the means for the states to earn more money by creating many NCPs from one CP.

A state's CS guideline is the key to the implementation of a successful family law moneymaking system. Lawmakers at both the state and federal levels are being kept completely in the dark regarding the actual amounts NCPs are required to pay in CS. This happens in many states (such as California, Michigan, North Carolina, Pennsylvania and Wisconsin) by having committees under their State Supreme Courts manage the rules and procedures for child support, domestic violence and other areas of family law under their "Domestic Relations" statutes instead having governance and oversight a direct function of the legislative committees and the managed by Department of Human Services. This separation of lawmaking and the establishment, oversight and management of procedures results in systems that allows states' courts to financially abuse their NCPs to the direct incentive benefit of the states and their counties while those who are empowered to change the laws, provide oversight and effect discipline can be told their state's guideline are fair and they will be none the wiser.

An example from one documented case study: In 2000, California's child support guidelines dictated that an NCP with two children and earning \$4,400 per month net income to pay \$1,760 per month in child support. [Policy Studies Inc., \(PSI\)](#) conducted the federally mandated child support guideline review in California in 2000-2001. They reported to the state legislature that the child support order for a NCP earning \$4,400 per month net income with 2 children was \$667 per month.

Concurrently, [The Institute for Family and Social Responsibility \(FASR\)](#) reported to the United State House of Representatives Ways and Means Committee that a California NCP with 2 children earning \$4,400 per month income must only pay \$770 per month (reference the US House, Ways and Means Committee, [2000 Greenbook, Table 8-2](#)). PSI under-reported the California child support guideline to the state legislature by \$1,093 per month, while FASR under-reported the California child support guideline to the U.S. House of Representatives by \$990 per month.

Both PSI and FASR have contributed to the federally mandated child support reviews of numerous states since the CSPIA went into effect in 1998. PSI currently provides outsourced child support services in nine states with 27 full-service child support offices between them, including [child support system design and development](#) and private collections, promising to maximize federal incentive funding. Their revenue from these contracts is based on a percentage basis. This while FASR serves as the [National Child Support Enforcement Research Clearinghouse \(NCSEA\)](#).

Preliminary investigations by grassroots organizations and individuals across the country reveals that under-reporting of child support levels in their guidelines by the states contractors to state and federal legislatures is widespread.

Child Support Arrearages

The state's total collections from NCPs include the child support arrearages and the interest on the arrearages. The equation below describes the total CS arrearage if a NCP never makes a payment (CS = child support per month, t = months, I = interest).

Although the interest that is allowed to be charged on child support arrearages is specified to range from 3% to 6% per annum, many states, notably California and including others have been found to be charging as much as 10% per annum on arrearages. See;

[42 USC 654 \(21\)\(A\)](#) - State plan for child and spousal support

at the option of the State, impose a late payment fee on all overdue support (as defined in section 666 (e) of this title) under any obligation being enforced under this part, in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than 6 percent) of the overdue support, which shall be payable by the NCP owing the overdue support; and

Where Interest = I

$$2) \text{ Child support arrearage} = CS * t + I * CS * t * (t+1) / 2$$

For example: Under the current North Carolina child support guidelines a NCP with 3 children, with gross earnings of \$4,400 per month, monthly child support (CS) obligation could amount to:

CS = \$1,633 per month child support, plus,

$$I = 10\% / 12 \text{ months} = 1/120 \text{ interest every month for } t = 18 \text{ years} * 12 = 216 \text{ months.}$$

The total collection after 18 years would be

Child support arrearage =

$$(\$1,633) * 216 + (1/120) * (\$1,633) * (216) * (217) / 2 = \$352,728 \text{ in child support} + \$318,924.90 \text{ in interest} =$$

\$671,652.90 total

The above example shows that if a NCP who had never contributed to their child support obligation finally paid it off in year 2003, North Carolina would receive from the taxpayers the amount specified in [42 USC 658a \(b\)\(6\)\(D\)](#) based on the full amount collected (CS + I = \$671,652.90).

The child support arrearage described in equation 2) increases with an increase in NCP income, children, interest, or time.

Where

If $T_{CS}(t)$ = Total child support arrearage as a function of months,

and

$T_I(t)$ = Total child support interest as a function of months

$$1) T_{CS}(t) = CS_1 + CS_2 + \dots + CS_t = \sum_{y=1,t}(CS_y)$$

$$2) T_I(t) = I_1 * CS_1 + I_2 * (CS_1 + CS_2) + \dots + I_t * (CS_1 + CS_2 + \dots + CS_t) = \sum_{x=1,t}(I_x * \sum_{y=1,x}(CS_y))$$

$$\text{let } CS = CS_1 = CS_2 = \dots = CS_t$$

$$1) T_{CS}(t) = CS * t$$

$$\text{let } I = I_1 = I_2 = \dots = I_t$$

$$2) T_I(t) = I * CS * \sum_{y=1,t}(y)$$

$$\text{let } \sum_{y=1,t}(y) = t * (t+1) / 2$$

$$2) T_I(t) = I * CS * t * (t+1) / 2$$

NCP Parenting Time Factor

To maximize the child support the state must insure that the parent earning the highest income before the divorce does not get custody of the children. This will maximize the cash flow between parents while creating a direct financial incentive for continued high levels of divorce. In addition, most of the states' child support guideline includes consideration for the time the children spend with each parent as a critical part of their child support calculations. This financially incentivizes the states courts to promote sole-parenting arrangements or at a minimum, drastic reductions in parenting time for the NCP's.

Based on the current North Carolina CS guidelines, the time each parent has with a child has the most dramatic impact on the NCP's obligation of all the areas the CP can manipulate. The follow examples are developed using an [online CS calculator](#) provided by the North Carolina's [Rosen Law firm](#). In the first set of examples, we will be using a 2-child model where both parents are working with equal incomes. For speed and clarity of the impact parenting time has on the CS obligation only the parenting time factors will be modified and all other details are set to zero. In all the examples to follow, the gross incomes of both parents will \$4,000 per month.

With the NCP's parenting time is 0% the CS obligation = \$618.00

With the NCP's parenting time equal to 20% (73 overnights) the CS obligation = \$618.00

With the NCP's parenting time equal to 30% (109 overnights) the CS obligation = \$618.00

With the NCP's parenting time equal to 35% (128 overnights) the CS obligation = \$276.00

With the NCP's parenting time equal to 40% (146 overnights) the CS obligation = \$186.00

With the equal parenting time (182 overnights) the CS obligation = \$2.00.

Note: 100% equal parenting time would be 182.5 overnights and would result in a \$0.00 CS obligation, but Rosen's calculator does not accept half days.

The next set of examples uses a 2-child model where both parents are working with the NCP having double the income of the CP. The monthly incomes used are; NCP = \$4,000, CP = \$2,000.

With the NCP's parenting time is 0% the CS obligation = \$758.70.

With the NCP's parenting time equal to 20% (73 overnights) the CS obligation = \$758.70

With the NCP's parenting time equal to 30% (109 overnights) the CS obligation = \$758.70

With the NCP's parenting time equal to 35% (128 overnights) the CS obligation = \$539.00

With the NCP's parenting time equal to 40% (146 overnights) the CS obligation = \$455.00

With the equal parenting time (182 overnights) the CS obligation = \$287.00.

This shows why it is in the states best interest to see to it that the parent with the highest earnings does not get custody of the child and the time the NCP gets with the children stays below 30% (the national average is 35%). This has resulted in widespread "time struggles" between parents and an untold number of ex-parte Domestic Violence (DV) orders on behalf of dependent children. False claims of domestic violence are the most common method used to help the one parent get custody and leverage the greatest levels of child support by reducing the time with or keeping the NCP from ever seeing their children.

For the past four years, women, who are now members of True Equality Network, have been present in the waiting room areas at courthouses across the country. We have conducted in person surveys of the plaintiffs regarding their reasons for filing DV claims. To date our sample set exceeds 15,000 face-to-face interviews. The most common answer is to the effect of that their attorney told them to do it to help get sole custody so they will receive more child support. On any given day, in any given court 75% to 90% of the plaintiffs give that type of answer. The second most common reason for filing a DV complaint, given 10% to 15% of the time related to infidelities, the DV order was either for revenge or to avoid dealing with their infidelities. Over the four-year study period, less than 5% of the women interviewed in person stated they were abused, with the majority flatly stating they were not abused in any manner.

The states have incentive funding requirements to enforce CS collections, but none to enforce custody or visitation guidelines. To correct this problem Republicans in Michigan were able to get 5088 "Support and Parenting Time enforcement Act" through the state house. HB 5088 adds dialog to amend the State's Domestic Relations Codes, making interfering with, or depriving of scheduled visitation an Indirect Criminal Contempt charge (ICC) with the equal penalties as those for non-payment of child support. However, it remains to be seen how successful anyone would be in trying to enforce such support once it is enacted.

On the heels of HB 5088 Michigan's House Republicans introduced HB 5267, "A bill to amend 1970 PA 91, entitled "Child custody act of 1970," amending section 6a (MCL 722.26a) of the state code and adding the new section 6a(1) to read.

Section 6a.

(1) In a custody dispute between parents, the court shall order joint custody unless either of the following applies:

(a) The court determines by clear and convincing evidence that a parent is unfit, unwilling, or unable to care for the child.

(b) A parent moves his or her residence outside the school district that the child has attended during the previous 1-year period preceding the initiation of the action and is unable to maintain the child's school schedule without interruption. If a parent is unable to maintain the child's school schedule, the court shall order that the parents submit to mediation to determine a custody agreement that maximizes both parents' ability to participate equally in a relationship with their child while accommodating the child's school schedule. A parent may restore joint custody by demonstrating the ability to maintain the child's school schedule.

(4) (3) If the court awards joint custody, the court ~~may~~ SHALL include in its award a statement regarding when the child ~~shall reside~~ RESIDES with each parent, ~~or may~~ AND SHALL provide that physical custody ~~be~~ IS shared by the parents ~~in a manner to assure the child continuing contact with both parents~~ ALTERNATELY FOR SPECIFIC AND SUBSTANTIALLY EQUAL PERIODS OF TIME.

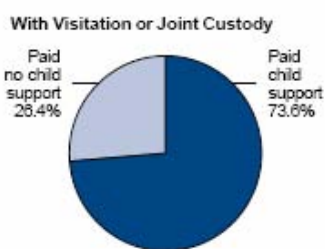
(8) (7) As used in this section, "joint custody" means an order of the court in which ~~+~~ BOTH of the following ~~is~~ ARE specified:

(a) That the child ~~shall reside~~ RESIDES alternately for specific and SUBSTANTIALLY EQUAL periods OF TIME with each ~~of the parents~~ PARENT.

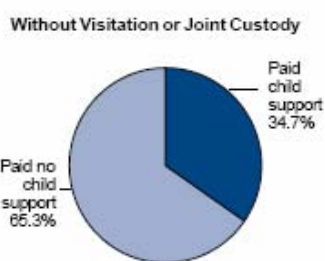
(b) That the parents ~~shall~~ share decision-making authority as to ALL OF the important decisions affecting the welfare of the child, INCLUDING, BUT NOT LIMITED TO, THE CHILD'S EDUCATION, RELIGIOUS TRAINING, AND MEDICAL TREATMENT.

The plain fact is enforcement of visitation guidelines would cost the states enormous amounts of revenue through CSPIA grants, but save the American taxpayers billions of dollars a year. The U.S. Department of Commerce Economics and Statistics Administration U.S. Census Bureau reports that NCP's with shared custody or visitation are by far more likely to pay their child support in full and on time without CSE intervention than those without. The following is taken from page 3 of the Census Bureau report [Custodial Mothers and Fathers and Their Child Support - P60-196](#);

Figure 4.
Child Support Payment Status
of Noncustodial Parents With
and Without Visitation or Joint
Custody: 1995



Base: 6.0 million
noncustodial parents.



Base: 0.9 million
noncustodial parents.

Source: April 1996 Current Population
Survey, U.S. Bureau of the Census.
Details may not add to total because of rounding.

"Visitation and joint custody are associated with higher child support payment rates."

About 10.6 million (77 percent) of the 13.7 million parents who were not living with their children (noncustodial parents) had joint custody and/or visitation provisions for contact with their children. The 7.0 million noncustodial parents who owed child support in 1995 were more likely to have made payments if they had either joint custody or visitation rights—74 percent with such provisions made payments compared with 35 percent without them (see Figure 4)."

Our organization alone has documented almost 1,000 cases of North and South Carolina based NCP's who have not seen or heard from their children in four years or more. All of these cases are due to continual renewal of existing or annual filing of new ex-parte domestic violence orders on behalf of minor children by the CP. As we, all know we are a growing state, most of these NCP's have relocated to North Carolina from other states and have not been back to those states in recent years. Thus, it is unlikely to impossible that any of these NCP's committed the acts alleged against them that are being used to keep them from any contact their children.

It is an established fact that such actions by the states exacerbate the growth of child support arrearage. This while the states are generating increased revenues through increased child support awards due to the reduced time with the children with the NCP and from the funding for the ex-parte domestic violence orders funded under the Violence Against Women Act (VAWA). It is clear the current system of entitlements and incentives makes supporting vindictiveness of the CP's or simply not enforcing custody orders a highly profitable endeavor for the states.

In light of a forthright effort by state level Republicans toward equal parenting rights fierce, highly vocal opposition to this legislation is coming from major women's groups, child support officials, the American Bar Association, federally funded domestic violence coalitions and manufacturers of women's products.

Manipulations of Economic Factors

In reviewing the background economics provided to the states by consulting firms such as [Policy Studies Inc., \(PSI\)](#), and [The Institute for Family and Social Responsibility \(FASR\)](#), we have found several areas where their cost metrics were in fact the complete reverse of real world examples.

During 2005 members of True Equality Networks conducted several survey sets. One survey was on household costs during the time where the parents who had equal custody were with and without children. The survey sample set was of 500 amicably divorced parents with equal parenting time located in Alaska, California, Colorado, Florida, Maryland, Michigan, New Hampshire, New Jersey, North Carolina, Pennsylvania, Tennessee, and Virginia (both the CP and NCP's of the same children were surveyed).

In 98 percent of cases, we found that all their utility costs were lower regardless of location and season while the parents had the children. The exception was two (2) percent that reported their water bills were on average five (5) percent higher when the children were with them. Our survey found that the parents were more conservative with utilities (lighting, water etc.), took shorter showers and baths were taken less often while their children were present. Various consulting companies to the states indicated that these costs are as much as 37% higher while the children are present with the parents.

The only cost that did in fact increase with all those surveyed while the children were with the parent was food costs, which varied greatly among those surveyed. We also found the consulting companies present other cost factors that conflict with established cost models. For example, the feeding costs for children are quoted to be more than double of what the U.S. Department of Agriculture calculates are the costs required for feeding children in all of the above surveyed states. This too violates Federal mandates to base support guidelines on established cost models.

Paternity Fraud and Paternity Establishment Fraud

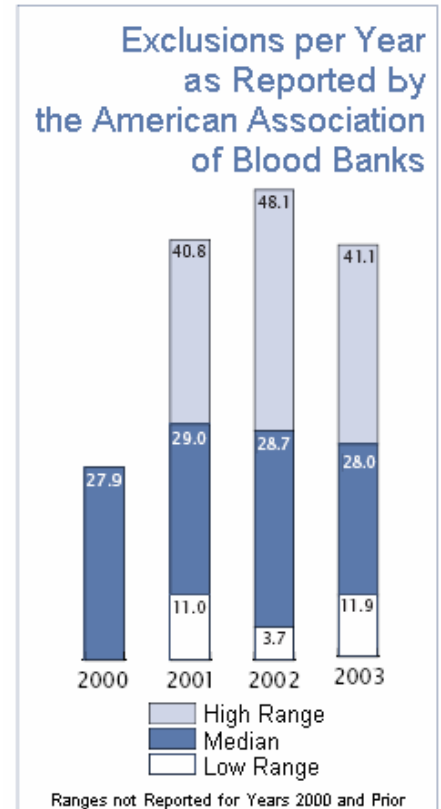
The paternity fraud problem is very serious with indications that paternity tests show that nearly 30% of the fathers named are not the parent. While paternity establishments appear to have reached, record levels many and in some areas, most of the paternity establishments are by default judgments.

The most compelling example on record comes from California, where they have frequently exceeded a 100% compliance rate since the 1996 welfare reform became law. California led the nation in collecting \$198 million above their administration costs for establishing paternity in 1998 (reference the US House Ways and Means Committee, [1998 Greenbook, Section 8, CSE](#). Table 8-20 "Paternities Established" - pages 100-101, Table 8-20 "Paternities Established" - pages 100-101, Table 8-21 "Out-Of-Wedlock Births" - pages 101-102, and Table 8-22 "Percentage of Paternities Established" - pages 102-103) which details the windfall this has brought to the state. This Ways and Means report details the fact that California claimed a paternity establishment rate of 123% in 1998, resulting in approximately 34,000 paternity establishments in excess of the state's out of wedlock births. This begs the question; how does a state exceed a 100% of any compliance rate except through fraud?

Although several states are developing anti-paternity fraud legislation (Michigan, Tennessee, Wisconsin, New Hampshire and California who has already passed their first version into law in 2005) most states are still ignoring a pandemic of paternity fraud. Colorado recently passed legislation barring the use of genetic testing once a child support order is issued. Millions of American men are being forced, under the threat of incarceration, property seizure and other methods to support children that are proven through genetic testing not to be their own.

Despite being in direct violation of Federal law, paternity fraud has become the excuse of choice for the states to increase their arrearages as many of these putative fathers refuse to be charged for the results of someone else's fraud. However, due to the collection capabilities presently in place and those forthcoming at some point the state will collect most of the child support and the interest. Thus making paternity fraud profitable for the state no matter what the results are of the collection efforts.

One state, New Hampshire, has noted its paternity fraud rate is well above the national average and it is suspected to be substantially higher among married and recently divorced couples than unwed mothers. The American Association of Blood Banks (AABB) reports an average exclusion rate of 29.06%. The details are within their report ANNUAL REPORT SUMMARY FOR TESTING IN 2001, Prepared by the Parentage Testing Program Unit, October 2002 (enclosed), exclusion rates are covered on page two (2). These reports show consistently significant levels of exclusions. Additional years are detailed below;



2003:

Of 353387 cases reported, 99,174 (28.06%) The average exclusion rate for the laboratories reporting exclusions is 27.40% with a standard deviation of 6.01. The median exclusion rate is 27.98% with a range of 11.94% to 41.18%

2002:

Of 340,798 cases reported, 97,681 (28.70%) were reported as exclusions. The average exclusion rate for the laboratories is 27.12% with a standard deviation of 7.80. The median exclusion rate is 28.12% with a range of 3.70% to 48.10%.

2001:

Of the cases, reported 90,227 were reported as exclusions or a rate of 29.06% exclusions. The average exclusion rate for the laboratories is 28.10% with a standard deviation of 7.17. The median exclusion rate is 29.25% and the mode is 27.87% with a range of 11.03 – 40.86%.

2000:

A total of 300,626 cases of family relatedness testing were evaluated by laboratories in 2000, an increase over 1999 of about 7%. The overall exclusion rate for 2000 was 83,875 (27.90%) for domestic accredited labs.

The unfortunate truth is there are areas of the country with paternity fraud rates, or rates of attempts of, as high as 40% and maybe more. Failing to address this issue will without question result in continued growth in arrearages and political backlash against incumbent legislators from the effected electorate. Recognizing these facts, New Hampshire has funded a commission under [RSA 5C:11](#) (see page 23) to study whether requiring genetic testing to establish paternity before any person's name may be entered on a state issued birth certificate will resolve or at least significantly reduce this problem in their state.

Paternity Fraud Through Default Judgments

Default judgments are another significant area of arrearage growth. This problem has been documented by the LA Times going back as far as 1998 as in the L.A. Times report, "[In 9 of 10 Child Support Cases, D.A. Comes Up Empty-Handed](#)" where it was reported that,

"No one knows how many men are wrongfully pursued for child support, though the district attorney's own records show that on average more than 350 a month are incorrectly named as fathers."

There are no indications that the LA County's problem have seen any significant improvement since this series of reports first ran.

According former Los Angeles County prosecutor, Judge Mablean Ephriam, in 2000 79 percent of paternity judgments were decreed by default. Most of these men had no idea they were considered "fathers" until their wages were garnished. As told by Judge Ephriam and others, the only pre-hearing efforts made to locate these men are ads placed in the legal notices section of the newspapers. One has to be concerned when someone, and especially when our courts can allege the paternity of a child, but are not able to provide service details of the putative father until after the child support order is entered. Which is would be the case in most of these default judgments.

Judge Ephriam, in her 2002 letter to the [Los Angeles County Board of Supervisors](#) she says,

"There is no doubt that men have important issues that are not addressed enough by society. Fraud is one example. Thousands of men every year are misidentified as the father of a child and never know about it until years later, when it is too late. Then they're locked into financial prison and forced to pay child support when DNA excludes them as the father. Countless men and their families have been victimized and devastated by this very serious social problem. I have met and represented many of them myself."

There is considerable concern and contention over what is either the consistent disregard of the following federal statute or lack of application of equal protection under the law with regard to it; [42 USC 666 \(a\)\(5\)](#) which states;

- (5) Procedures concerning paternity establishment.—
 - (A) Establishment process available from birth until age 18.—
 - (i) Procedures which permit the establishment of the paternity of a child through the use of genetic tests at any time before the child attains 18 years of age.
 - (ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

To date, only California has procedures that permit genetic testing as evidence to exclude a putative father as the father of a child in question and provide relief from erroneous child support obligations. All of the other states still have statutes of limitations that are less than 18 years and refuse such evidence after the states statutes of limitations has expired. These periods range from six months to two years.

There are, however, a considerable number of cases, in every state, where the putative father was included as the biological father of the child in question through genetic testing and was assigned a child support obligation when testing was conducted beyond the state's normal statute of limitations, but in less than 18 years.

Efforts to correct this problem by Republicans in Michigan were added to HB 5088 "Support and Parenting Time enforcement Act" through the state house. Included within HB 5088 is clear anti-paternity fraud dialog.

Section 5f.

- (1) An individual may file a motion for relief from a court order that states that the individual is a child's father or that requires the individual to pay child support. The court shall vacate an order stating that an individual is a child's father or terminate a child support order if the court finds both of the following:
 - (a) The individual is not the child's adoptive parent.
 - (b) Genetic testing results are admitted into evidence and the results exclude the individual as the child's parent.

NCP Poverty Level

The DHHS Office of Child Support Enforcement data shows that two-thirds of those behind on child support nationwide earned less than \$10,000 in the previous year; less than four percent of the overall national child support debt is owed by those earning \$40,000 or more a year. According to the largest federally funded study of divorced dads ever conducted, unemployment, not willful neglect, is the largest cause of failure to pay child support.

A great deal of accrued arrearages are the direct results of the state courts unwillingness to reduce CS obligations to NCP's who have become unemployed, under-employed, disabled or called into reserve duty. The failure or refusal to process requests for downward modifications both violates federal law (see [42 USC 666 \(a\)\(10\)\(A\)\(i\)](#)) and creates uncollectible arrearages which should adversely affect the state's enforcement performance, but for undetermined reasons have not.

Following federal law with respect to downward modifications will improve compliance and reduce enforcement costs. The benefit of downward modifications in reducing the accumulation of arrearages should also be helpful to states under the current incentive formula. However, the states seem to have other mechanisms in place to compensate for these uncollected arrearages.

[From a DHHS funded Study:](#)

"Most modification are upward. Most (90%) of the orders were modified upward, only 10 percent of the orders were modified downward."

According to U.S. Census Bureau data on NCP, fathers only 4 percent of NCP fathers who were paying child support under an order received downward adjustment when their earnings fell by more than 15 percent between one year and the next. The five state study, [Revising Old Child Support Orders:](#) conducted by the [Institute for Research on Poverty](#) shows the levels of downward adjustments awarded vary greatly among the states:

From page 15:

An examination of the revised orders reveals that 3 percent were revised downward, and another 6 percent had no change in the dollar amount of the basic order, but had some other change, for example a temporary increase in the order to collect an arrearage that had accumulated or the addition of health insurance. The remainder of the revisions (91 percent) were increases.

From page 19:

Policies regarding downward revisions varied across states, and this clearly affected the average percentage increase in orders. Downward modifications accounted for 17 percent of the modifications in Oregon, 13 percent in Delaware, 7 percent in Colorado, 1 percent in Illinois, 0 percent in Florida, and 3 percent in Wisconsin.

The following is taken from; Can Everyone Pay Child Support?, 18(12) Fair\$hare, Dec. 1998, at 16., Hon. Anne Kass. Presiding Family Judge, Albuquerque, New Mexico, District Court,

"The time has come for someone to speak in defense of 'dead-beat dads.' Divorced or separated parents who do not pay support have been taking a beating from everyone, including the President.

I have seen some parents who refuse to pay child support even though they have plenty of money to do so. . . . However, I have seen far more parents who are ordered to pay child support who pay some support but not all they are ordered to pay. Many of these parents are engaged in a financial struggle that they cannot win. These are the working poor."

CP Poverty Level

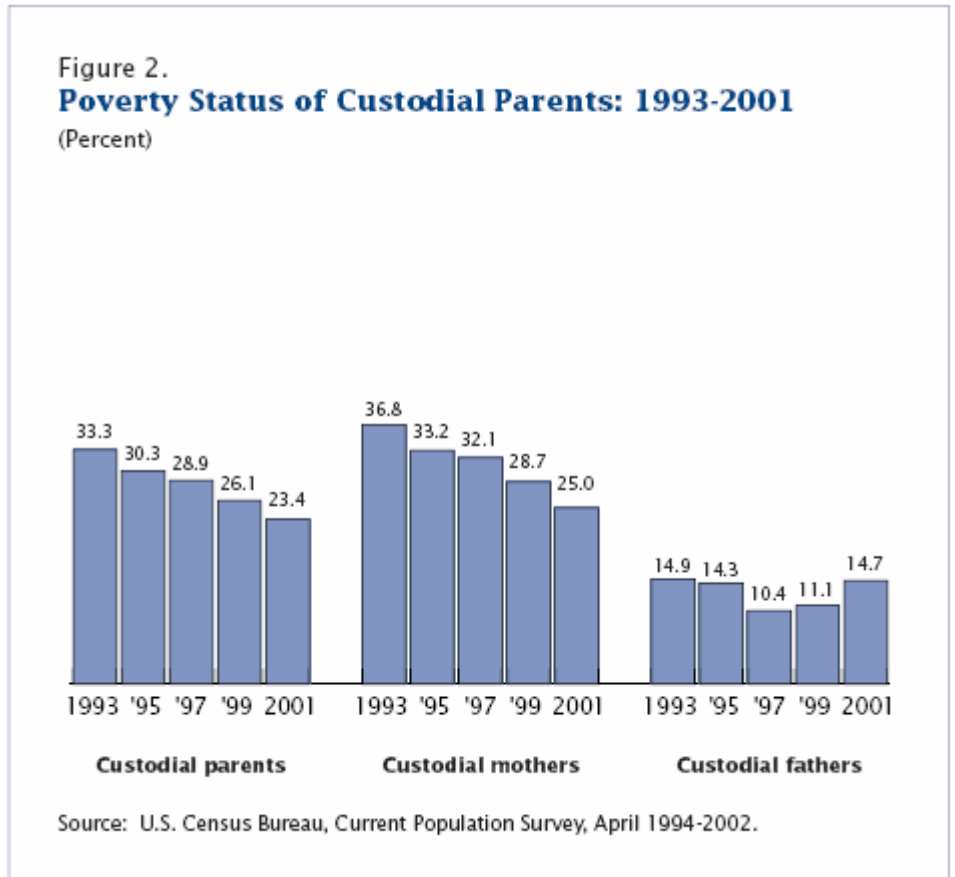
Although both the U.S. Census Bureau and DHHS report mixed findings on poverty reduction for unmarried custodial parents, the overall poverty levels for CP's continues to decline.

However, both agencies report the poverty rate for custodial fathers began to rise in 1997 and continued to do so to the present time.

In 2006, True Equality Network began conducting a survey among custodial fathers. To date 280 were surveyed. The survey revealed that 61 (21.7%) were still paying court ordered child support to the now non-custodial mother. This included two cases where the mother had lost custody due to her incarceration on drug charges, but were able to maintain their CS orders while in prison.

Despite continued efforts to have these support orders dismissed, they have been ordered to pay support to the NCP mother, on average, for 22 months from the time they were awarded custody of their children.

This was the only detail we could find in common among custodial fathers who were living below the poverty level.



Reservists

We open this section with the 2002 case of a non-reservist, Bobby Sherrill, a divorced father of two from Parkton, North Carolina. Mr. Sherrill worked for Lockheed in Kuwait before being captured and held hostage by Iraq for nearly five months. He was arrested the night he returned from the Persian Gulf War for failing to pay \$1,425 in child support while he was a captive.

If laws are not changed, thousands of today's reservists could face a similar threat. Reservists' child-support obligations are based upon their civilian pay, which is generally higher than their active-duty armed forces pay. When a child-support obligator's pay decreases, the remedy is to go to court and get a downward modification. However, since reservists are often mobilized with as little as 24-hours notice, few are able to get these modifications before they leave. As a result, many reservists fall hopelessly behind while serving, and can be subject to arrest for nonpayment of child support upon their return.

For example, a naval reservist who has three children and who takes home \$4,000 a month in his civilian job could have a child support obligation of about \$1,600 a month. If this father is a petty officer second class (E5) who has been in the reserves for six or seven years — a middle-ranked reservist — his active-duty pay would only be \$1,912 before taxes, in addition to a housing allowance. Without a downward modification in child support, his support obligation will exceed his net income by a significant amount.

Currently, only the state of Missouri has a statute ([Chapter 452, Section 452.416](#)) that mandates an automatic adjustment of support for reservists called up for active duty. There were more than 250,000 reservists were called up since 2002. Today more than 75,000 reservists and National Guard troops are on active duty as a result of the events following 9/11. Many of them have served more than one tour of duty and many reservists service could extend for an indefinite period. Due to the urgent nature of their mission many of them were mobilized with as little as 24-hours notice in the early days of the war. Few were able to get child support modifications before leaving overseas. As a result, they have fallen behind in their support payments while deployed, and they too may be subject to arrest for nonpayment of child support upon return from their tours of duty to their home states.

States assess interest on arrearages as well as penalties on past-due child support. Because the federal Bradley amendment prevents judges from retroactively modifying or forgiving support, obligator who fall behind for legitimate reasons, such as sudden, short notice deployments, cannot have these arrearages wiped out. And even those returning servicemen who avoid jail or other sanctions may still spend years trying to pay off their child support debt — a debt created entirely by their willingness to serve their country.

Child Support Modifications and Custody Actions Against Deployed Military Personnel

Many deployed Military personnel find themselves subjected to upward child support modifications and custody actions their deployment makes impossible for them to address. Such actions have become so commonplace the states of California and Michigan recently passed laws designed to protect their national guard and reservists. These laws were designed to protect deployed military personnel in two critical areas;

1. Prevention of a change of custody while a military service member is deployed
2. Prevent the absence from regular parenting time to affect the weighting of the 12 custody factors used in custody determination.

The current state of hostility in our family courts dictates that these protections and those provided by the Missouri statute must become a matter of Federal Law either through modification of CSPIA or via an update of the the Servicemembers Civil Relief Act of 2003 (SCRA) or both.

Conservative activist David R. Usher, who was instrumental in the work done in the Missouri statute, has met with both Senator Elizabeth Dole (R-NC) and Elaine Donnelly of the Center for Military Readiness. They both strongly agreed that the problem of child support in the military needs to be corrected. Despite this support, nothing has been done at the Federal level to begin to study the best method to approach a growing problem for Military personnel. Mr. Usher covers the various family law issues Military personnel do experience in his article, [Divorce And Child Support Are Eviscerating Military Recruitment](#).

Our North Carolina base of operation serves a constituency of about 2700 members in the Carolinas. Approximately 40% percent of these members are either active duty Military, National Guard or activated reservists and/or their families. We provide free baby-sitting service to the children of deployed reservists and National Guard personnel as well as poll and visit various food banks for donations to them and then deliver the food to their families.

Of the Military personnel or families we help about half are divorced parents. The abuses through the various states courts have become so pervasive 100% of our divorced military clients have stated they will not be re-enlisting when the time comes and many openly state to the effect of that, they "regret serving an ungrateful nation." Statements such as that are coming from Officers as well as enlisted personnel.

We fully empathize with the Department of Defense's (DoD) position that Congress writes the laws that they are required to obey. Additionally it is acknowledged that even the most remote appearance of working against any U.S. or states laws, or when no such appearances exist they are fabricated, will result in swift public condemnation of DoD, the Republican lead Congress and Administration from numerous sources.

However, it is our assessment that the fault does lay directly and fully on DoD for its inaction in approaching pertinent members of the various congressional committees with petitions for amendments to the current laws, projecting a callous temperament toward the victims of these abuses and portraying their internal counseling programs as being successful where they are clearly failing. Because these family law issues are very well known to the public the lack of action has had and will continue to have a negative effect on recruitment as well as an untold, but predictably dramatic impact in the long-term retention of existing highly skilled personnel trained at enormous cost to the taxpayers.

Of all matters covered in this report we can not stress in strong enough terms that immediate action by the Administration, Congress and DoD is required to remedy both the short and long term impact these conditions present to maintaining our all volunteer Military. It is unreasonable to expect anyone to serve in defense of freedom and inherent rights when while doing so they will be wrongly denied their basic civil rights in protecting their natural right to be a parent to their own children.

Administration Funding Reductions

Several states, notably those with Democratic Governors, have been cutting funding for CSE since 2002. Most have reduced this funding by amounts greater than 23% of the states' pre 2002 budget. During the closing days of 2005 Congressional session, the Republican led congress pushed the effort to make a number of budget cuts. These cuts included reductions in federal reimbursements to the states for CSE from 66% of the states' costs to 50% over five years.

The states that have adopted a reasonable economic model for their child support guidelines have actually been forced to reduce the CSE workforce, due to the lack of arrearages to collect. States that maintain an appropriately outrageous child support guideline can't simply choose to watch the arrearages grow and gain increased revenues from various funding sources. The incentive calculation within CSPIA will cost the state incentives if they do. Annually, the Federal asset tracking systems catch some of the obligators, along with tens of thousands of former obligators whose cases have expired or the child in question or obligator is deceased.

Many Governors have already made cuts to CSE in their home states -- including North Carolina -- that far exceeded the funding represented by the federal level cuts. Despite this, Democrats, women's advocates, federally funded abuse coalitions, the National Governors Association, the American Bar Association, and CSE officials have been extremely vocal in their opposition to the proposed cuts in the federal funds that subsidize states' CSE efforts. This begs the question as to what the states planned to actually spend these funds on, being they are obviously not planning to spend them on CSE.

In reality, much, if not most child support enforcement funds are recklessly expended in misguided attempts to collect artificially inflated paper arrearages from low-income men (who couldn't possibly pay them), victims of paternity fraud who are openly defiant of the support orders, expired accounts that remain on the books, accounts of deceased obligators, and on accounts based on default judgments where the putative father has never had paternity established by any method, been located, or served with the support order. They therefore have no knowledge of the alleged paternity or court ordered support obligation. Given these conditions, it is highly unlikely that any of these monies will ever be recovered.

Suggestions

Although the problems with fraud and other abuses of CSPIA seem overwhelming at times, there are some simple solutions to a majority of the problems. So long as CSPIA's incentives are based on collection amounts, the states can leverage the cases of the top 4 to 7 percent of wage earners to meet most of the requirements of CSPIA. This is evidenced by the fact that over two-thirds (2/3) of arrearages are owed by those earning less than \$10,000 per year. Making the operation of CSPIA to gain incentive payments a government funded system of class discrimination.

The simple solution to this is to change the incentive requirements from a dollars collected based system to a collected cases based system. The system could be structured similar to other established Federal systems such as Medicare. Where each service (i.e. IV-A, IV-D, etc, case collections) would be assigned a fixed base rate. This rate would then be adjusted by multiplying it to a regional economics factor much like and such as the system H.U.D. uses for rating for the region, then adjusted against an efficiency factor developed on the caseloads collected instead of dollars collected.

This would remove the incentive to collect only top wage earner and thus eliminating the class discrimination. It would also disincentive the states from failing to enforce custody/visitation orders, award minimal time to NCP's to gain increased incentives and help curb the assault against the American family and marriage by defusing much of the profit motives of those that support the current system. Moreover, if properly structured it would place the marriage protection incentives at a par with or better than child support incentives creating a true incentive to protect and reserve marriages.

Paternity fraud is by far the most damaging to both our civilians at large and to retention of our skilled Military personnel. While also creating a hostile disincentive for recruitment of new married male personnel. This, however, is the simplest to correct. By simply restricting the paternity establishment incentives throughout the United States Code Title 42 to accept only genetic testing as a means to establish paternity, regardless of the mother's marital status, paternity fraud would end. No state will give up its incentives to assist in perpetrating this fraud.

In order to ensure proper oversight it would also be prudent to forbid the states' court systems and/or Executive branches from managing the development process and the oversight of their child support guidelines. Many states' sunshine laws exclude their courts' operations. That results in the development and management of the state's child support guidelines to be hidden from public view and scrutiny. This is presently an acceptable practice within the scope of CSPIA and Title 42 of the United States Code.

Enclosures

DHHS Form OCSE 34A

DHHS Form OCSE 157

DHHS Form OCSE 396A

AABB, ANNUAL REPORT SUMMARY FOR TESTING IN 2001, Prepared by the Parentage Testing Program Unit, October 2002. No longer available online.