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## The Child Support Provisions of the Deficit Reduction Act of 2005

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During the week of December 18, 2005, both the House and the Senate took up the fiscal year 2006 federal budget reconciliation (called the Deficit Reduction Act of 2005). On very close votes, each chamber passed the bill. The Senate version (S. 1932) differs slightly different from the House version, so the House must vote again before the bill can go to the President for signature. This vote is expected on February 1, 2006.

Subtitle C of Title VII of this bill authorizes changes to the child support program operated under Title IVD of the Social Security Act (42 USC § 651 et seq.). One set of changes is new rules for the distribution of child support payments collected on behalf of families who currently receive Temporary Assistance for Needy Families (TANF) as well as families who have received cash assistance in the past. These changes are quite positive and will allow states to distribute more child support to these needy families. (These changes are discussed in a separate CLASP publication.)

Subtitle C of Title VII also authorizes changes in both the financing and the substance of the child support program itself. Below is a description of these changes.

**Please Note:** It is possible that the House will make additional changes in the Deficit Reduction Act of 2005 or that the Act will fail to pass the House. Therefore, this description is meant as a guide for those attempting to understand the provisions of the current, 744-page conference agreement.

### Financial Provisions

The bill makes changes to child support program financing in the following areas.

**Funding for federal and state staff, research and demonstration programs, and special projects of regional or national significance.** Under current law, an amount equal to 1 percent of the federal share of child support collected for families receiving TANF in the previous year is appropriated for a variety of federal activities including training, technical assistance, information dissemination, and special projects. Under the new distribution rules noted above, the amount of TANF- associated child support going to the federal government is likely to diminish. As a result, the funds available for these federal activities could also be substantially reduced. To insure that there is sufficient money, the bill provides a floor under

which the amount available for these activities will not be less than the amount appropriated for Fiscal Year 2002. This change is found in Section 7304 of the bill and would amend 42 USC § 652(j).

**Funding for the federal Parent Locate Service.** Under current law, an amount equal to 2 percent of the federal share of child support collected for families receiving TANF in the previous year is appropriated for funding the Federal Parent Locate Service (FPLS). To account for the fact that the FPLS was in development and would draw down funding at different rates at different times in the years after its creation, the law also provides that amounts appropriated for Fiscal Years 1997 through 2001 are available until expended.

As noted above, under the new distribution rules, the amount of TANF- associated child support going to the federal government is likely to diminish. As a result, the amount available for these federal activities could also be substantially reduced. To insure that there is sufficient funding, the bill provides a floor under which the amount available for the FPLS will not be less than the amount appropriated for Fiscal Year 2002. It also provides that all appropriated funds (even those outside the Fiscal Year 1997 to 2001 period) will remain available until expended. This change is found in Section 7305 of the bill and would amend 42 USC § 653(o).

**Reduction in Federal Reimbursement for the Costs Associated With Genetic Testing.**

The federal government reimburses the states for 66 percent of the costs of running most of the activities of the state child support enforcement program—this is often referred to as FFP, or federal financial participation. One exception is that the federal government now pays 90 percent of the costs associated with genetic testing in parentage cases. Under the bill, genetic testing costs incurred on or after October 1, 2006, would be reimbursed at the 66 percent rate. This change is found in Section 7308 of the bill and would amend 42 USC §655(a)(1)(C).

**Restriction on the Use of Incentive Payment Funds.** As noted above, the federal government pays 66 percent of the basic costs of a state's child support program. The state puts up the other 34 percent in matching funds. States can also earn incentive funds for good performance in five key areas: establishing paternity, establishing support orders, collecting current support, collecting arrears, and cost effectiveness. These incentive funds must be reinvested in the child support program or closely related activities like fatherhood programs. In addition, incentive funds may be used as part of the state's 34 percent match. The bill would change this and, effective October 1, 2007, eliminate the state's ability to use incentive funds for state match. This change is found in Section 7309 of the bill and would amend 42 USC § 655(a)(1).

**Mandatory Fees.** TANF recipients cannot be asked to pay fees or costs associated with child support enforcement services. States may charge former-assistance families as well as families that have never received TANF some fees and costs, but few do so. The bill would require states to charge families that have never received TANF-funded assistance an annual fee of \$25 if the state collects at least \$500 in support. The fee may be collected by taking the funds from collected support in excess of \$500, or billed to the individual who sought the child support services (which could be either the custodial or the non-custodial parent), or

charged to the absent parent. It could also be paid by the state. This provision would become effective October 1, 2006. This change is found in Section 7310 of the bill and would amend 42 USC §§ 654(6)(B) and 657(a)(3).

### **Substantive Provisions**

The conference agreement changes the way the child support program operates in the following ways.

**Use of the federal income tax intercept program to collect arrears owed on behalf of children who are not minors.** One of the most potent child support enforcement provisions in current law is the federal income tax intercept program, which allows tax refunds to be seized and used to pay child support arrears. Under current law, this tool cannot be used if the child is not a minor unless the child became disabled during his/her minority and there is a current support order in effect. The bill would erase this restriction, making federal income tax intercept available to collect arrears owed on behalf of all children, even if they are no longer minors. This change is found in Section 7301(f) of the bill and would amend 42 USC §§ 664(a)(2)(A) and 664(c).

**Requirement to open a case file when high-volume, automated, administrative enforcement is used in interstate cases.** Under current law, states are required to use high-volume, automated administrative enforcement techniques in interstate cases to the same extent they are used in intrastate cases. If such services are provided in an interstate case, the case is not considered to have been transferred to the receiving state. However, there has been some confusion about whether the receiving state can open a case file for the case. The bill would provide the receiving state with the option to do so. This change is found in Section 7301(g) of the bill and would amend 42 USC § 666(a)(14)(A)(iii).

**Mandatory review and adjustment of child support orders for TANF families.** Under current law, state are required to have a process pursuant to which child support orders are reviewed and adjusted (if appropriate) at least once every three years if either parent requests a review and adjustment. If the family is receiving TANF, a triennial review must also be conducted if requested by the TANF agency. The bill strikes this latter provision and makes other changes in the language. As a result, effective October 1, 2007 states would be required to conduct triennial reviews in all TANF cases as well as non-TANF cases if requested by a custodial or non-custodial parent. This change is found in Section 7302 and would amend 42 USC § 666(a)(10)(A)(i).

**Decrease in the amount of arrears that can trigger a passport denial.** Under current law, if a case is being handled by the state child support enforcement agency and the obligated parent is more than \$5,000 in arrears, that individual may not be able to obtain a passport. If the individual already has a passport, the passport may be revoked or limited. Under the bill, effective October 1, 2006, if more than \$2,500 is in arrears is owed, the passport denial/revocation procedures may be invoked. This will make the remedy available in even more cases. This change is found in Section 7303 of the bill and would amend 42 USC §§ 652(k)(1) and 654(31).

**Information comparisons with insurance data.** Currently, there is no matching of information about delinquent obligors and potential insurance coverage at the federal level. Such matches would now be authorized to be conducted by the Federal Parent Locate Service (FPLS). If information is obtained, it would then be transmitted to the state child support agency. The new law would also hold insurers harmless (under both state and federal law) for revealing such information. This provision is found in Section 7306 of the bill and would add a new subsection (l) to 42 USC § 652.

**Establishment and enforcement of medical child support obligations.** One of the duties of the state child support agency is to pursue health care coverage for the supported child or children if it is available to the *non-custodial* parent through employment and at a reasonable cost. The law does not address situations where such coverage is not available or advisable through the non-custodial parent but is available through the custodial parent. That parent might be able to obtain coverage especially if the non-custodial parent contributed to the associated costs (e.g., premiums, co-pays, deductibles). State agencies have been reluctant to pursue custodial parent coverage (and associated cost-sharing) because it was not clearly covered by the governing statute. In addition, it was not clear that activities associated with this activity were eligible for FFP. Moreover, there has been some ambiguity about situations in which no health care coverage is available to either parent. Should the child support agency seek an order that addresses payment for the child's uncovered medical expenses in those cases?

The bill addresses these issues in its provisions. *First*, all orders enforced by the state child support enforcement agency must include a provision for medical support. *Second*, the state may look to either or both parents to provide such support. *Third*, the state child support agency may enforce a medical support order against both custodial and non-custodial parents. *Fourth*, the bill contains a definition of "medical support" so that it includes both health insurance and payment for medical expenses incurred on behalf of a child. As a result, if health insurance coverage is available to either parent, states will be required to establish an order requiring that the children be placed on such coverage with appropriate cost sharing. States will also be able to enforce such orders against both custodial and non-custodial parents. If health insurance coverage is not available, states can pursue cost-sharing of the expenses associated with the child's medical expenses.

These changes are found in Section 7307 of the bill and would amend 42 USC §§ 652(f), 666(a)(19) as well as 29 USC § 1169 note.