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## Child Support Provisions in the Deficit Reduction Act

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June 22, 2006

### The Deficit Reduction Act of 2005 (Pub. L. No. 109-171)

The Deficit Reduction Act of 2005 (“DRA”) was signed into law by President Bush on February 8, 2006 after a closely divided Congress approved the legislation. The new law, adopted by Congress as S. 1932, makes major funding and program changes to the child support and TANF programs. In addition, it creates a new federal grants program available for fatherhood and marriage initiatives.

The following summary is a preliminary analysis of the child support, fatherhood and marriage provisions of the new budget law.

### Funding Provisions

The DRA includes the following provisions affecting child support funding. Section references are to S. 1932 as adopted.<sup>1</sup>

- **Federal match on incentive payments eliminated.** Section 7309 of the bill prohibits the Secretary of Health and Human Services (“HHS”) from paying federal matching funds on reimbursable activities funded with incentive payments. The Congressional Budget Office estimated that if states replace half of the funding gap with new state funds, the provision would result in a net reduction in federal funds of \$4.9 billion (reducing collections by \$8.4 billion) over the next ten years. The provision amends 42 U.S.C. 655(a)(1) and will take effect on October 1, 2007.<sup>2</sup>
- **Federal match for genetic testing reduced.** Section 7308 eliminates the enhanced federal match rate for laboratory costs to determine paternity. The federal match rate will drop from 90 percent to 66 percent under the new law. The provision amends 42 U.S.C. 655(a)(1)(C) and will become effective on October 1, 2006.
- **Mandatory parental fees.** Section 7310 requires states to impose an annual fee of \$25 on families who have never received TANF assistance in child support cases with collections of at least \$500. States have four options: (1) retain the fee from collected support; (2) charge the individual applying for services; (3) recover the fee from the absent parent; or (4) pay the fee out

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<sup>1</sup> The final version of the legislation is available at <http://thomas.loc.gov> and is indicated as S. 1932.ENR (“enrolled as agreed to or passed by both House and Senate”).

<sup>2</sup> Vicki Turetsky, *Families Will Lose At Least \$8.4 Billion in Uncollected Child Support If Congress Cuts Funds—and Could Lose Billions More*, Center for Law and Social Policy (January 18, 2006), available at [www.clasp.org](http://www.clasp.org).

of state funds. The provision amends 42 U.S.C. 654(6)(B) and will become effective on October 1, 2006.

- **FPLS and technical assistance funding maintained.** Sections 7304 and 7305 establish fiscal year 2002 as a baseline for federal funding available to operate the Federal Parent Locator Service and for training, technical assistance, research, and special projects. The provisions amend 42 U.S.C. 653(o) and 652(j), respectively. The general effective date (October 1, 2005) applies.

### **Distribution Provisions**

The DRA contains the following changes to rules governing the pass-through of child support payments to custodial parents (“distribution”).

- **Pre-assistance assignment eliminated.** Section 7301(a) limits the state’s assignment to support owed while families receive TANF assistance. The provision modifies 42 U.S.C. 608(a)(3). It will become effective on October 1, 2009, but states have the option to implement a year earlier.
- **State options to discontinue older assignments.** Section 7301(c) gives states separate options to discontinue pre-1997 and post-1997, pre-DRA assignments. The options will allow states to conform their older cases to new rules. The provision amends 42 U.S.C. 657(b). States may adopt the options after October 1, 2008.
- **State option to eliminate tax offset exception.** Section 7301(b) allows states to eliminate the special distribution rule applied to arrears collected through an offset to federal tax refunds owed to obligors. States may elect either treat federal tax offsets like other types of collections or apply current rules. The provision amends 42 U.S.C. 657(a)(2) and adds a new paragraph (34) to 42 U.S.C. 654. The provision also defines “current support amount” in a new paragraph (5) added to 42 U.S.C. 657(c). In addition, a technical amendment is made to the Internal Revenue Code to give offset priority to child support arrears, regardless of TANF assignment status, amending 26 U.S.C. 6402(c). States may elect to eliminate the tax offset exception after October 1, 2008.
- **Federal share waived when support is passed through.** Section 7301(b) provides that the federal share of collections is waived if a state pays collected support to former TANF families. For current TANF families, the federal share is waived if the state passes through and disregards support, up to \$100 for one child and \$200 for two or more children. The provision amends 42 U.S.C. 657(a) and goes into effect on October 1, 2008.

### **Establishment and Enforcement Provisions**

- **Mandatory review of TANF orders.** Section 7302 reinstates the pre-PRWORA requirement that states review and adjust TANF orders on a 3-year cycle. The provision amends 42 U.S.C. 666(a)(1)(A)(i) and becomes effective on October 1, 2007.
- **Medical support establishment and enforcement.** Section 7307 requires support orders enforced by the child support program to include a provision for medical support; requires states to consider both parents’ access to health insurance; and permits enforcement against both parents. If health insurance is not available, states may pursue cost-sharing of children’s medical expenses. The provision defines “medical support” to include both health insurance and payment for children’s medical expenses, and amends provisions governing health plans. The provision amends 42 U.S.C. 666(a)(19)(A), with conforming amendments to 42 U.S.C. 652(f) and 29 U.S.C. 1169 note. The general effective date (October 1, 2005) applies.

- **Reduced threshold for passport denial.** Section 7303 reduces the arrearage amount required to trigger a passport denial from \$5,000 to \$2,500. The provision amends 42 U.S.C. 652(k)(1) and takes effect on October 1, 2006.
- **Tax offsets available for adult children.** Section 7301(f) authorizes federal tax offsets of arrears owed to children who are not minors in non-TANF cases. The provision amends 42 U.S.C. 664(a)(2)(A) and (c), and takes effect on October 1, 2007.
- **State option to use statewide automated system for interstate cases.** Section 7301(g) permits states to open a corresponding case when another state requests assistance. The provision amends 42 U.S.C. 666(a)(14)(A)(iii). The general effective date (October 1, 2005) applies.
- **Federal insurance data matching.** Section 7306 authorizes HHS to use the Federal Parent Locator Service (FPLS) to match cases with overdue support with information maintained by insurers. The provision adds a new paragraph (l) to 42 U.S.C. 652. The general effective date (October 1, 2005) applies.

### Effective Date

Section 7701 sets the general effective date for provisions amending child support, TANF, child care, child welfare, and SSI programs included in title VII of the budget legislation. The general effective date provides that the provisions “shall take effect as if enacted on October 1, 2005.” Section 7311 provides that when state legislation is required to comply with the law, states have three months after the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment.

### Marriage and Fatherhood Provisions

The DRA appropriates \$150 million annually between 2006 through 2010 for federal competitive grants for marriage projects, with a \$50 million set-aside for fatherhood projects and a \$2 million set-aside for tribal child welfare projects. The list of eligible applicants is broad—including state and local governments, non-profits, faith and community based organizations. The new marriage and fatherhood grant program will be codified within the TANF statute, at 42 U.S.C. 603(a)(2).<sup>3</sup>

Section 7103 of the DRA authorizes the U.S. Department of Health and Human Services to award grants to carry out the following healthy marriage grant activities:

- Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.
- Education in high schools on the value of marriage, relationship skills, and budgeting.
- Marriage education, marriage skills, and relationship skills programs that may include parenting skills, financial management, conflict resolution, and job and career advancement for non-married pregnant women and non-married expectant fathers.
- Pre-marital education and marriage skills training for engaged couples and for couples or persons interested in marriage.

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<sup>3</sup> On May 16, 2006, the Administration for Children and Families (ACF) announced the availability of funds for healthy marriage programs—the Healthy Marriage Demonstration Grants and a National Healthy Marriage Resource Center (NHMRC).<sup>3</sup> For the funding announcement, see: <http://www.acf.hhs.gov/grants/open/HHS-2006-ACF-OFA-FH-0129.html> The Responsible Fatherhood program announcement was posted on May 18, 2006 and can be found at [www.acf.hhs.gov/grants/open/HHS-2006-ACF-OFA-FR-0130](http://www.acf.hhs.gov/grants/open/HHS-2006-ACF-OFA-FR-0130) .

- Marriage enhancement and marriage skills training programs for married couples.
- Divorce reduction programs that teach relationship skills.
- Marriage mentoring programs, which use married couples as role models and mentors in at-risk communities.
- Programs to reduce the disincentives to marriage in means-tested aid programs if offered in conjunction with any of the other seven activities.

In addition, section 7103 authorizes HHS to award grants for the following activities promoting responsible fatherhood:

- **Promoting or sustaining marriage** through activities such as counseling, mentoring, disseminating information about the benefits of marriage and 2-parent involvement for children, enhancing relationship skills, education regarding how to control aggressive behavior, disseminating information on the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, marital inventories, skills-based marriage education, financial planning seminars, including improving a family's ability to effectively manage family business affairs by means such as education, counseling, or mentoring on matters related to family finances, including household management, budgeting, banking, and handling of financial transactions and home maintenance, and divorce education and reduction programs, including mediation and counseling.
- **Promoting responsible parenting** through activities such as counseling, mentoring, and mediation, disseminating information about good parenting practices, skills-based parenting education, encouraging child support payments, and other methods.
- **Fostering economic stability** by helping fathers improve their economic status by providing activities such as work first services, job search, job training, subsidized employment, job retention, job enhancement, and encouraging education, including career-advancing education, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods.
- **Promoting responsible fatherhood** through a contract with a nationally recognized, nonprofit fatherhood promotion organization, such as the development, promotion, and distribution of a media campaign to encourage the appropriate involvement of parents in the life of any child and specifically the issue of responsible fatherhood, and the development of a national clearinghouse to assist States and communities in efforts to promote and support marriage and responsible fatherhood.

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