Testimony of Vicki Turetsky

Senior Staff Attorney, Center for Law and Social Policy

before the

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Center for Law and Social Policy
1616 P Street, NW -- Suite 150
Washington, DC 20036
(202) 328-5140

Summary of the Testimony of Vicki Turetsky
Senior Staff Attorney, Center for Law and Social Policy
1616 P Street, N.W., Washington, DC 20036, (202) 328-5140

To date, only 22 states have a certified child support computer system as required by the Family Support Act of 1988. The Subcommittee is considering legislation to modify the existing penalty against states failing to meet the extended October 1, 1997 deadline and to permit states to receive federal funding for linked multiple systems. The legislation also includes a new incentive payment formula. CLASP recommends that:

1. Congress retain the single statewide system requirement. The current requirement has helped states operate more uniform, responsive child support programs. In addition, the requirement will simplify future system development by requiring modification of only one system.

2. If Congress does include waiver language in the legislation, it should clarify that linked multiple systems must be integrated statewide and cost-effective.

3. Congress should adopt a computer penalty structure that includes progressive penalties, and forgiveness in the year of completion. Forgiveness should apply only when the state completes a certified system. In addition, forgiveness should apply only to the penalties incurred in the final year. Penalty levels should be sufficient to encourage states to finish sooner rather than later.

4. The incentive payment structure should include (1) a recycling provision that requires incentive payments to supplement existing state expenditures, and (2) a medical support performance indicator.

Members of the Subcommittee:

I am a Senior Staff Attorney at the Center for Law and Social Policy. CLASP is a non-profit organization engaged in research, analysis, technical assistance and advocacy on issues affecting low income families. We do not receive any federal funding. CLASP has tracked child support computer developments for several years.

I appreciate this opportunity to testify about state child support computers. In my testimony, I will focus on the waiver of the single statewide system requirement and the proposed penalty structure. In addition, my testimony includes two recommendations relating to the incentive payment proposal.

I. The Single Statewide System Requirement Should Be Retained.

When Congress passed the single statewide computer requirement in 1988, it passed a solid, workable piece of legislation. The idea was that states could improve program productivity by streamlining, standardizing, and automating routine child support activities through a single statewide computer. Federal computer certification guidelines are quite general and basic, but when implemented, they transform the business of child support. They tell states that they must operate a single integrated system that links child support offices and courts, and automates routine work steps. The specifics are left to the state and its contractor. States are no longer required to transfer in technology from another state. HHS has approved four waivers, including Los Angeles County, Kentucky, North Carolina, and Kansas.

Congress should not change the single statewide requirement, nor the waiver process administered by HHS. Rather, alternative systems approved by HHS should meet the same certification standards as other state systems. There are two reasons why Congress should not change the current law. First, the current requirement has been beneficial. It has helped states operate more uniform, responsive child support programs. In addition, the requirement will simplify future system development by requiring modification of only one system.

Second, there is a serious risk of further delay if state planning and implementation efforts are diverted. California still does not have a publicly announced plan for coming into compliance with the 1988 requirements. If the current requirements remain unequivocally in place, California could quickly decide to expand one of its county systems and finish in three years. However, it is likely that state planning efforts will stall while federal waiver legislation is pending. Once the waiver door is widened, it is likely that the state will feel the pressure from some of its counties to pursue a waiver. Yet there is no assurance that the state would design a more effective alternative system or that HHS would grant waiver approval. Other states that are well on the way to certification may also decide to switch tracks and pursue a multiple system strategy.

Recently, CLASP began conducting a confidential survey of state child support directors to ask them

directly to describe the benefits and drawbacks of the federal requirement that states have a "single statewide automated system."[1] We also asked a number of questions designed to explore the link between program organization, performance and computerization. So far, three-fourths of states (36) have responded. This includes a range of large, medium, and small states. While the survey is not yet complete, responding states have identified a number of important issues.

States reported many benefits from the single statewide requirement. Responding states reported numerous benefits from implementing the single statewide system. States listed the following benefits the most frequently:

- Standardization of program practices throughout the state;
- A single source of case information available to state management and from any local office;
- Simplified computer development, enhancement, and programming of one system.

Other listed benefits included improved data and record keeping, improved customer responsiveness, improved efficiency, increased program accountability, improved case management and tracking, improved distribution, increased collections, improved location of parents and assets, and improved confidentiality.[2]

Nearly every state with a locally-run program reported that it was harder and more costly to implement the statewide computer. All but two states with a locally-operated program said that their program structure made it more difficult to implement the 1988 statewide system requirements, while two-thirds said their decentralized structure made it more costly to implement the system. By contrast, none of the state-run programs reported that their program structure made it more difficult or more costly to implement the system.

Three-quarters of states with locally-run programs reported additional disadvantages. Several states reported that their decentralized structure hampered performance, decreased program accountability, made it harder to maintain reliable data, or made it more difficult to secure resources. States with decentralized programs identified other weaknesses, including inefficiency, inconsistent administration, lack of standardized practice, uneven resource allocation affecting customer service, and

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[1] CLASP agreed not to identify individual state responses, but stated that it would publish aggregated responses and responses that did not identify the state. CLASP expects to publish survey findings in February 1998.

[2] The main drawbacks reported by states were cost and complexity. Six states reported that cost was a drawback to the single statewide system requirement, while four states said that the complexity of the system was a drawback. Three states noted resistance from local players; two states described the difficulty and cost of converting from multiple systems; and two states said that it was difficult to meet diverse county needs.

problems with control, cooperation, communication and training. However, a few states commented that their decentralized structure made the program more responsive to the community and provided local control over budgets. By contrast, states with state-operated listed several advantages and few disadvantages to their organizational structures.[3]

There is no question that decentralized states have had a more difficult time implementing statewide systems. The survey responses suggest a strong link between program organization, performance and computerization. Yet conversion from multiple systems to a single statewide system is a one-time process and appears to benefit the program in the long run. Once the state has converted to a single system, future system enhancements and replacement should be easier and less costly. A number of states with a single statewide system already in place reported few problems complying with the 1988 requirements.[4] As one state said, "requirement allowed us to convert old single statewide system with ease. No county or locate systems to contend with. Decision making was precise, clear-cut, and fast during the project."

II. To Obtain a Waiver, a State Should Demonstrate That the Alternative System Is Fully Integrated and Cost-effective.

If Congress does decide to include waiver language in statute and to permit federal funding for linked multiple systems, the benefits of the single statewide system must be retained. As CLASP's survey responses indicate, the most important benefits of the single statewide computer requirement are (1) program standardization throughout the state; (2) a single source of case information available to state management and from any local office; and (3) simplified computer development, enhancement, and programming.

Part of the confusion over the statewide system requirement is that there are really two separate visions of a linked multiple system. The first vision focuses on technological flexibility, while the second vision focuses on local program control.

- The first vision is a "wide area network" or other distributed technology. Although there are multiple computers, they are operating in sync through shared software. The system is

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[3] Most states with state-operated programs reported that the key strength of their program structure was their centralized organization, allowing for more efficient operation, more uniform practices, more consistent service delivery, more accountability, better communication or easier training. A number of states said that their centralized structure allowed program changes to be implemented quickly. Only one state-run program reported that its structure hampered performance, decreased program accountability, or made it harder to maintain reliable data. Two states reported that their centralized structure made it more difficult to secure resources.

[4] Ninety percent federal funding to develop single statewide child support computer systems has been available since 1981 (hardware costs have been covered since 1984).

"integrated." All computers are electronically linked, and the linkages are "transparent" to the user. In other words, the computers function as though they are one system. A case is entered in one location, and can be pulled up in another location. Data is only entered once. Program procedures are uniform. System software is developed and updated statewide and installed in all computers at the same time.

C The second vision is of county systems that interface for some, but not all, purposes. Local programs develop and run separate program software that incorporates local policies and procedures. Each county system separately meets functional requirements (such as automatically enforcing support). However, all programs maintain a defined set of reporting data, which is electronically transmitted to the state computer. Certain functions, such as distribution and the state-level activities required by section 466(c) of the Social Security Act, are performed by the state computer.

The practical implications are very different for these two visions. For example, consider how a state's linked multiple system would respond to a custodial parent who moves from one county to another. The parent initially applies for services in County A. The worker in County A takes her application and enters the data into the computer system. The parent then moves to County B. Can the worker in County A electronically transfer the case to County B, or does the worker close out the case and mail the case file to County B? When the parent walks into the County B office, is she told that County B is already working her case, or is she told to start all over again with a new application for services? Can County B determine whether County A has a case opened for her, and can multiple cases opened in different counties be retrieved, or is this difficult to find out?

Or, consider how the state office would respond to a legislator who raises concerns about the adequacy of services provided to a constituent. Can the state administrator pull up the constituent's case from the computer, and immediately evaluate the case history? Or must the state administrator first request information from the county?

Or, consider how a state administrator would monitor a particular county's case handling practices. Could the state administrator evaluate individual case actions from files retrieved from the computer, or is the administrator limited to a review of aggregated data, letters to the county, and on-site county visits?

If the legislation includes waiver language, the Subcommittee should make clear that a state must implement an *integrated system* (that is, the first vision, not the second) to qualify for a waiver. Otherwise, the problems that have plagued the IV-D program since its inception -- inconsistent service delivery, uneven resource allocation, weak local accountability, and inefficient program operation -- will be built into the computers. In addition, the state should be required to demonstrate that the proposed system meets the requirement of section 454(16) that the systems be "designed effectively and efficiently to assist management in the administration of the State program." The state should be

required to show that linked multiple systems are cost-effective, not only at the time of initial implementation, but when they are operated, maintained, enhanced, and replaced.

III. The Penalty Structure Is Designed to Encourage States To Get Done Sooner Rather Than Later.

It is critical that Congress modify the current penalty as it applies to the failure of states to meet the 1997 deadline. Unless Congress acts to amend the current penalty, states are subject to state plan disapproval and cancellation of federal funds for their child support and TANF programs. The modified penalty should recognize that computer implementation has been a long, arduous process, and that there have been a number of contributing factors in the delay. At the same time, the penalty should recognize that the failure of states to automate their programs on time has resulted in serious financial losses for families and the program, and missed opportunities for improved performance. The penalty also should recognize that the federal government has footed the bill for statewide systems development, reimbursing 90 percent of development and implementation costs. In addition, the penalty should recognize that Congress agreed to extend the deadline by two years with the promise that systems would be completed by October 1997.

It is never easy to impose a penalty against a state, and this Subcommittee should be commended for its efforts to enact a fair penalty structure. The penalty structure outlined in the proposed legislation is a balanced approach designed to encourage states to finish sooner rather than later. However, the specific penalty percentages included in the legislation may be too low to be effective, particularly in the third year. A penalty scale which increases to 20 percent in the third year may be more effective in persuading states to settle on a plan and come into compliance as quickly as possible.

In modifying the penalty, two main objectives should be balanced against the state program's need for resources. The first objective is to convince state and local players that they can not afford further delay. If California can get done in three years instead of five years, it should have every incentive to do so. If Michigan can get done in one year instead of three years, it should be strongly encouraged to do so. The penalty must be substantial enough to get the attention of the state legislature and local players, and to break the logjams that continue to stymie computer implementation in some states. Ironically, one of the dangers of imposing a light penalty on states is that the state child support office may be forced to absorb the full penalty, but none of the other players will have to deal with the penalty consequences.[5]

The second objective is to send a clear message that Congress is serious about welfare reform and child support enforcement. Child support, like work participation, is one of the cornerstones of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The magnitude of the computer penalty should have some consistency with existing child support audit penalties and other TANF penalties. (See attached chart comparing computer and work participation penalties). The

[5] For example, in California, a state law provision effectively insulates local district attorney offices from federal penalties of up to 4 percent of federal administrative funds.

penalty will set the framework for future computerization efforts required by the new law. If the penalty is too severe, state efforts to comply with future deadlines may be compromised. If the penalty is too severe, state efforts to comply with future deadlines may be compromised. If the penalty is too light, states may conclude that they can afford to miss future deadlines.

The proposed legislation is limited to a state's failure to meet child support computer deadlines in 1997 and 2000, and applies a penalty scale against federal child support administrative funds, and not TANF funds. This will result in a much smaller penalty amount than if existing child support audit penalties were applied against TANF funds. The legislation includes several important features:

- **The consequences of failing to complete the system escalates over time.** This is accomplished by (1) imposing progressively larger penalties, and (2) providing for 75 percent forgiveness in the year the state meets federal certification requirements. In other words, states that are almost done would receive no penalty or a small net penalty,[6] but states face progressively more serious penalties over time.

- **Forgiveness applies only to the penalty incurred in the year of completion.** States are going to make a fiscal calculation of the net impact of delay. That calculation will be based both on the penalty size and the effect of forgiveness. For example, if California completed its system in three years, it would incur a 4 percent penalty in fiscal year 1998 and an 8 percent penalty in fiscal year 1999. In fiscal year 2000, it would pay only 25 percent of 16 percent (that is, 4 percent). This is a small penalty for three more years' worth of delay. On the other hand, if California takes five years, it would pay 16 percent in fiscal year 2000, 20 percent in 2001, and 25 percent of 20 percent (5 percent) in 2002. It is clearly to California's advantage to finish in the third year, rather than the fifth year. If there is retroactive forgiveness for each year, the incentive to finish sooner rather than later will be weakened. The penalty will be handled simply as a cash flow problem.

- **Forgiveness applies only to completion, not compliance with a corrective action plan.** The reality is that it would be very difficult for HHS adequately to monitor "good faith" state compliance with a corrective action plan or to assess the state's progress against milestones, and forgiveness set up in this way is likely to give rise to disputes about the state's progress. In the past, states have made many assurances about their progress to Congress, to HHS, and to the GAO. For many states, these assurances have not been accurate.

In conclusion, Congress should act swiftly to modify the penalty provision and should adopt penalty structure that encourages states to complete their systems sooner rather than later. The penalty structure should include a progressive penalty scale approaching 20 percent in the third year, with forgiveness in the year of completion. In addition, Congress should consider carefully before it widens the door to waiver applications and additional delay. Finally, Congress should make clear that linked

[6] One percent of federal IV-D administrative funds (that is, 25 percent of 4 percent).

multiple systems must be fully integrated and cost-effective before it can be approved.

IV. Improvements to the Incentive Payment Structure

Congress should enact the incentive payment proposal in the legislation. However, I have two main recommendations:

- **Recycling provision.** The recycling provision in the legislation should include a requirement that the incentive payment supplement, rather than supplant, existing state funding. The reason for this is that most states generate sufficient revenues from their child support program to more than pay for the state share of administrative costs. Because money is fungible, states faced with a recycling requirement can simply substitute their incentive payments for other state dollars used to pay the state share of expenditures. Any surplus from the state share of collections can be transferred out of the program and into the general treasury. In 1995, three-fourths of states recovered at least 100 percent of their share of program expenditures from collections and incentive payments. A third of the states could have completely offset their state share of expenditures from the state initial share of collections, that is, before receiving incentive payments. Only fourteen states had to contribute any new state dollars to the program.

- **Medical support payments.** The legislation should include an incentive measure of state effectiveness in obtaining and enforcing medical support awards. HHS is close to completing new reporting forms that require state data to measure performance in this area, and state data should be available to measure state performance. Alternatively, Congress could direct HHS to require development of a medical support incentive using a consultative process similar to the process used to develop the incentive proposal now under consideration by the Subcommittee.

Comparison of Work Penalties Against TANF Funds[7] and Proposed Computer Penalty Against IV-D Funds[8] in California

	TANF work penalty would be:		Proposed IV-D computer penalty would be:	
Year 1	5%	$187 million	4%	$11 million
Year 2	7%	$261 million	8%	$22 million
Year 3	9%	$336 million	16%	$43 million
Year 4	11%	$411 million	20%	$54 million
Year 5	13%	$485 million	20%	$54 million

[7] $3733.8 million federal TANF block grant funds.

[8] $269.9 million federal reimbursement of IV-D administrative costs (FFP payments).