Testimony of Vicki Turetsky

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before the

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Summary of the Testimony of Vicki Turetsky
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The proposed legislation creates demonstration grant projects that focus on low-income fathers and their children, increases the flexibility of the Welfare-to-Work program, and provides needed penalty relief to states that failed to meet the deadline for implementing the State Disbursement Unit (SDU) for child support payment processing.

The goals of encouraging marriage, promoting good parenting, and improving the economic status of low-income parents are shared by CLASP. CLASP supports a demonstration project approach to new fatherhood funding. In addition, CLASP supports the focus of the Subcommittee on distributing more support to families. However, we have a number of recommendations regarding the proposed legislation:

- It is important to include the state child support program as a demonstration partner.
- Project participation should not be restricted to fathers.
- The language should expressly allow states to spend TANF MOE funds as the 25 percent non-Federal match.
- Project eligibility should be clarified and harmonized with Welfare-to-Work requirements.
- The legislation should increase the flexibility of projects and states to test child support innovations designed to help low-income parents and their children.
- State authority to pass through support to families should be clarified.
- Distribution of arrears paid by project participants may be difficult to implement on a small scale.
- The language should clarify whether projects should cancel or suspend payment of arrearages.

Chairwoman Johnson and Members of the Subcommittee:

Thank you for this opportunity to testify today about the proposed "Fathers Count Act of 1999." I am a Senior Staff Attorney at the Center for Law and Social Policy. CLASP is a nonpartisan, nonprofit organization engaged in analysis, technical assistance and advocacy on issues affecting low-income families. We do not receive any federal funding. My focus at CLASP is child support. Before working at CLASP, I was employed by Manpower Demonstration Research Corporation (MDRC), and helped implement the Parents' Fair Share (PFS) pilot project for unemployed noncustodial parents of AFDC children.

The Subcommittee's proposed legislation creates demonstration grant projects that focus on low-income fathers and their children and increases the flexibility of the Welfare-to-Work program. The goals of encouraging marriage, promoting good parenting, and improving the economic status of low-income parents are shared by CLASP. CLASP supports a demonstration project approach to new fatherhood funding. Research results from the Parents' Fair Share and other demonstration projects suggest that there is much to learn about helping the poorest fathers improve their economic and parenting prospects. The proposed legislation recognizes the negative impact of current child support assignment and distribution policies on low-income parents and their children, and aims to increase the amount of support distributed to families.

The proposed legislation creates a federal competitive matching grants program available to public and private entities for projects designed to promote marriage, to promote successful parenting, and to help fathers improve their economic status. To participate in a project, an individual must be (1) a father of a child receiving (or previously receiving) TANF, Medicaid, or Food Stamps, or a father (including an expectant father) with income below 175 percent of poverty. The proposed legislation includes a $42.35 million appropriation for the grants program (including project grants, evaluation, and federal administration) and an additional $15 million appropriation for three grants to national non-profit fatherhood promotion organizations.

The legislation also amends the Welfare-to-Work program and provides penalty relief for states failing to meet the State Disbursement Unit (SDU) deadline under the child support program. We generally support these changes.

My testimony today will focus on a number of recommendations to strengthen the policy and technical aspects of the proposed legislation creating a fatherhood grants program under title I of the bill. My primary recommendation is to increase the flexibility of the grant program to encourage innovative, well-designed projects and to encourage states to participate in those projects.

It is important to include the state child support program as a demonstration partner. (Sec. 442(a)(2).) Grant applications are required to include a written commitment by the state TANF agency and the local Workforce Investment Board to assist in providing employment and related services. Grant applications also should include a formal commitment by the state child support agency.[1]

There are two main reasons why the state child support program should be included as a formal

demonstration partner. First, demonstration projects must include a child support component requiring the substantial commitment and cooperation of the child support program. Second, Parent's Fair Share demonstration findings indicate that the most successful programs included an active child support program. The sites with strong child support agency partners were among the most successful in obtaining high participation rates, implementing on-the-job training, and increasing child support payments.[2] According to MDRC's interim evaluation report, "Sites in which the child support agency played a leading role in PFS showed flexibility in developing new approaches to monitoring the status of cases and encouraging participation in program services."

Project participation should not be restricted to fathers. (Sec. 442(a)(2)(A) and (B).) Clearly, the majority of low-income noncustodial parents are fathers, and grant projects will be aimed primarily at low-income fathers. However, the statutory language limits participation to fathers. It may be useful for the Subcommittee to consult with legal counsel to assure that the limitation does not impair Constitutional protections. As a policy matter, the language should be expanded to authorize projects to provide services to (1) low-income noncustodial parents, including fathers and mothers, and (2) custodial parents when the projects include a co-parenting or marriage component. Like noncustodial fathers, noncustodial mothers often have very low income levels and face multiple barriers to employment, parenting and marriage. About 2 percent of Parents' Fair Share participants are noncustodial mothers.

In addition, a number of innovative fatherhood programs include the joint participation of the partner or former partner of a noncustodial father -- the custodial mother of his child -- to help those fragile families strengthen their relationships. Many poor fathers and mothers are capable of building workable partnerships to help each other support and raise their children. These programs can help couples share parenting responsibilities, reduce conflict, and consider marriage. Yet, the statutory language would appear to preclude joint participation by both parents in a co-parenting or marriage component.

Project eligibility should be clarified and harmonized with Welfare-to-Work requirements. (Sec. 442(a)(2)(A)). Under the current language, a father must have a child who is currently receiving TANF, Medicaid or Food Stamps. This language should be clarified to allow for the father's continuing project eligibility once initial eligibility has been established, even if his child's public assistance status changes.

Potentially, an entity operating a fatherhood program might operate with a crazy-quilt of participant eligibility requirements from at least three separate federal funding streams: fatherhood project grants, Welfare-to-Work services under section 301, and TANF funds. The Subcommittee should consider whether to harmonize or coordinate the eligibility rules for these funding streams. For example, only fathers are eligible under the fatherhood project, while projects for noncustodial parents could qualify for Welfare-to-Work and TANF funds. Under the fatherhood projects, the child has to be a recipient of TANF assistance or services, Medicaid, or Food Stamps, or has to have received such assistance within the past 24 months. By contrast, under the Welfare-to-Work provision, the child has to be (1) a recipient of benefits under the TANF program within the past 12 months, or (2) currently eligible for or receiving Medicaid, Food Stamps, Supplemental Security, or child health assistance under title XXI.

In addition, the Welfare-to-Work program requires the noncustodial parent to comply with a personal responsibility contract, while the fatherhood project program does not have a similar requirement. The Welfare-to-Work program allows for job skills training, vocational educational training and basic education, while TANF participation rates exclude these activities.

The language should expressly allow states to spend TANF MOE funds as the 25 percent non-Federal match. (Sec. 442(a)(4)). This would improve the ability of project entities to meet the matching requirement and encourage state participation by helping states meet their maintenance of effort (MOE) obligation under the TANF program.

The legislation should increase the flexibility of projects and states to test child support innovations designed to help low-income parents and their children. (Sec. 442(c)(2).) CLASP endorses the concepts behind the proposed legislation: to distribute child support arrears to families and to compromise state-owed arrears that are not based on the noncustodial parent's ability to pay. As I testified before this Subcommittee on April 27, 1999, new public investments in fatherhood programs may be met with only limited success unless we begin to treat child support as part of the family's own resources, rather than as an offset to public welfare costs.

However, there are some practical difficulties raised by the proposed legislation which would require the commitment of significant resources by the child support program and create inflexible project designs. This inflexibility may discourage states from committing to the grant projects. In addition, those child support policies given preference under the grants program are unduly limited, and could preclude testing other innovative approaches to child support that would help noncustodial parents and their children.

Instead, the legislation should be written more broadly and flexibly to require projects to take actions designed to encourage or facilitate the payment of child support, without prescribing a specific type of action. The following actions might be listed as examples in the statute: (1) full distribution of pre- and post-TANF arrears to families, (2) distribution of support while the family is receiving TANF, (3) incentives for paying support, such as TANF disregards and matching payment policies, (4) setting the initial orders of project participants based strictly on ability to pay, (5) expedited review and modification procedures for orders and arrears, (6) compromising, forgiving, or suspending arrearages upon project participation or when the parents marry; (7) dispute resolution mechanisms, (8) dedicated child support staff assigned to project participants, and (9) community-based outreach and "house call" policies.

State authority to pass through support to families should be clarified. (Sec. 442(c)(2); sec. 101(b)) The legislation requires the Secretary to give preference in awarding grants to projects which will be "carried out in jurisdictions that have the authority to pass through all child support arrearage payments" made by project participants to mothers with earned income and who do not receive TANF assistance. A conforming amendment would amend the child support distribution statute, 42 U.S.C. 657, to require the state to distribute arrearages to the family if the father is participating in a funded fatherhood project.

As a technical matter, the conforming distribution amendment does not mirror the grant preference language, creating contradictory authorities. The grant preference section implies that states have the discretion to distribute all arrearage payments to former TANF families, while the conforming distribution amendment requires full distribution to the children of project participants. In addition, the grant preference section allows full distribution to the children of project participants only if the mother is not receiving TANF cash assistance and has earned income, while the conforming distribution amendment requires full distribution to the children of project participants regardless of the mother's current TANF and earnings status. In addition, state child support programs will have a difficult time ascertaining whether a post-TANF custodial parent has earnings.

Distribution of arrears paid by project participants may be administratively difficult to implement on a small scale. Under existing federal laws, states are required to follow a complex automated distribution regimen for arrearage payments made after the family leaves TANF. While the "families first" child support distribution policy is an important first step in allowing families to treat child support as family income, it is extremely complicated and costly to administer in practice. When fully implemented, the federal law will require states to maintain ten accounting "buckets:"

- Once a family leaves TANF, current monthly support and arrears accruing after the assistance period (post-assistance arrears) are paid to the family.

- However, arrearages that accrued while a family received AFDC or TANF (during-assistance arrears) belong to the state.

- Arrears that accrued before the family went on TANF (pre-assistance arrears) may belong either to the state or the family, depending on time period and subsequent receipt of assistance.

- Arrearage payments collected through federal tax offset program are applied to the state's debt before the family's debt, while arrearage payments collected through other means are applied to the family's debt first.

State child support administrators and advocates are generally supportive of simplifying post-TANF distribution rules by distributing all arrears paid by noncustodial parents to their children. However, piecemeal and small scale changes to the distribution rules will further complicate an already difficult-to-manage scheme. It may not be affordable or feasible to make changes to the state's automated child support computer in order to accommodate project policies that can not be implemented on a statewide basis. This means that participating states would probably assign staff to manually distribute child support for project families. This may be something a state is willing to do in a project context, but the need to assign dedicated staff does argue for greater state flexibility, particularly in light of the high caseloads and constrained staffing resources normally experienced by child support programs.

It is unclear whether projects should cancel or suspend payment of arrearages. (Sec. 442(a)(2)(B) and (3)). There are a number of approaches a state could take to relieve

noncustodial parents of high arrearage debts. For example, a state could review participants' support order, reducing both the monthly support obligation and accumulated arrears. It could suspend the support obligation, preventing further accumulation of arrears during project participation. It could suspend collection activities during participation. It could cancel all state debt charged to the noncustodial parent that is unrelated to his ability to pay (such as Medicaid birthing costs). It could offer an amnesty deal, canceling outright all state-owed arrears.

However, the statutory language is not completely clear about the treatment of arrears during participation. One section requires the Secretary to give preference to projects in which the state child support agency has committed to canceling outright all state-owed arrears. Another section requires that 75 percent of grant funds be spent on projects where the state child support agency has committed to a policy of suspending state-owed arrears owed by a project participant so long as he is making timely payments or is married to the custodial parent. In addition, the outright cancellation of all state-owed arrears may not always be appropriate for all fathers whose children received assistance. For example, a state may be unwilling to cancel all arrears when the noncustodial parent had the ability to pay some or all of the support order, but failed to pay.

In sum, while we think the Subcommittee is headed in the right direction by creating a fatherhood demonstration grants program that includes a focus on distributing child support to the children of noncustodial parents, we encourage the Subcommittee to include child support programs as demonstration partners, to broaden the flexibility of projects to test a range of child support innovations, and to better harmonize participant eligibility requirements among the grants program, Welfare to Work, and TANF programs.

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[1] Sec. 442(c)(4) provides that not less than 75 percent of the aggregate amounts paid as grants shall be awarded to entities whose applications include written commitments by the entity and the state child support program to coordinate the project.

[2] Doolittle, F., Knox, V., Miller, C., and Rowser, S., *Building Opportunities, Enforcing Obligations: Implementation and Interim Impacts of Parents' Fair Share* (New York: MDRC, Dec. 1998), ES-16-17, ES-24, and 93.