



Compilation Of The Social Security Laws



DUTIES OF THE SECRETARY

Sec. 452. [42 U.S.C. 652] (a) The Secretary shall establish, within the Department of Health and Human Services a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

- (1) establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse) with whom the noncustodial parent's child is living as he determines to be necessary to assure that such programs will be effective;
- (2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;
- (3) review and approve State plans for such programs;
- (4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;
- (B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and
- (C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—
 - (i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data and the accuracy of the reporting systems used in calculating performance indicators under subsection (g) of this section and section 458;
 - (ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—
 - (I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and
 - (II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and
 - (iii) for such other purposes as the Secretary may find necessary;
- (5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State, and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures;
- (6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;
- (7) provide technical assistance to the States to help them establish effective systems for collecting child and spousal support and establishing paternity, and specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee;
- (8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against noncustodial parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the noncustodial parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;
- (9) operate the Federal Parent Locator Service established by section 453;
- (10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:
 - (A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part, including—
 - (i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;
 - (ii) the cost to the States and to the Federal Government of so furnishing the services; and

(iii) the number of cases involving families—

- (I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and
- (II) with respect to whom a child support payment was received in the month;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the following data, separately stated for cases where the child is receiving assistance under a State program funded under part A (or foster care maintenance payments under part E), or formerly received such assistance or payments and the State is continuing to collect support assigned to it pursuant to section 408(a)(3) or under section 471(a)(17) or 1912, and for all other cases under this part:

- (i) the total number of cases in which a support obligation has been established in the fiscal year for which the report is submitted;
- (ii) the total number of cases in which a support obligation has been established;
- (iii) the number of cases in which support was collected during the fiscal year;
- (iv) the total amount of support collected during such fiscal year and distributed as current support;
- (v) the total amount of support collected during such fiscal year and distributed as arrearages;
- (vi) the total amount of support due and unpaid for all fiscal years; and
- (vii) the number of child support cases filed in each State in such fiscal year, and the amount of the collections made in each State in such fiscal year, on behalf of children residing in another State or against parents residing in another State;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the noncustodial parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient assistance under a State program funded under part A has refused to cooperate in identifying and locating the noncustodial parent and the number of cases in which refusal so to cooperate is based on good cause (as determined by the State);

(G) data, by State, on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government;

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report; and

(I) compliance, by State, with the standards established pursuant to subsections (h) and (i); and

(11) not later than October 1, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

- (A) collection of child support through income withholding;
- (B) imposition of liens; and
- (C) administrative subpoenas.

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954^[160] the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving assistance under the State program funded under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(4). No amount may be certified for collection under this subsection except the amount of the delinquency under a court or administrative order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the Secretary of the Treasury for any costs involved in making the collection. All reimbursements shall be credited to the appropriation accounts which bore all or part of the costs involved in making the collections. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 457 the amount of each collection made on behalf of such State pursuant to subsection (b).

(d)(1) Except as provided in paragraph (3), the Secretary shall not approve the initial and annually updated advance automated data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

- (A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,
- (B) contains a description of the proposed management system referred to in section 454(16), including a description of information flows, input data, and output reports and uses,
- (C) sets forth the security and interface requirements to be employed in such management system,
- (D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,
- (E) contains an implementation plan and backup procedures to handle possible failures,
- (F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and
- (G) provides such other information as the Secretary determines under regulation is necessary.

(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 454(16), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16).

(B) If the Secretary finds with respect to any statewide management information system referred to in section 454(16) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automated data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

- (i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;
- (ii) to submit data under section 454(15)(B) that is complete and reliable;
- (iii) to substantially comply with the requirements of this part; and
- (iv) in the case of a request to waive the single statewide system requirement, to—
 - (I) meet all functional requirements of sections 454(16) and 454A;
 - (II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;
 - (III) ensure that there is only one point of contact in the State which provides seamless case processing for all interstate case processing and coordinated, automated intrastate case management;
 - (IV) ensure that standardized data elements, forms, and definitions are used throughout the State;
 - (V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement and
 - (VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.

(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 454(16).

(f) The Secretary shall issue regulations to require that State agencies administering the child support enforcement program under this part petition enforce medical support included as part of a child support order, whenever health care coverage is available to the noncustodial parent at a reasonable cost. A State agency administering the program under this part may enforce medical support against a custodial parent if health care coverage is available to the custodial parent at a reasonable cost, notwithstanding any other provision of this part. Such regulation shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under title XIX with respect to the availability of health insurance coverage. For purposes of this part, the term "medical support" may include health care coverage, such as coverage under a health insurance plan (including payment of costs of premiums, co-payments, and deductibles) and payment for medical expenses incurred on behalf of a child.

(g)(1) A State's program under this part shall be found, for purposes of section 409(a)(8), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1994, its paternity establishment percentage for such fiscal year is based on reliable data and (rounded to the nearest whole percentage point) equals or exceeds—

(A) 90 percent;

(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;

(C) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 3 percentage points;

(D) for a State with a paternity establishment percentage of not less than 45 percent but less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 4 percentage points;

(E) for a State with a paternity establishment percentage of not less than 40 percent but less than 45 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 5 percentage points; or

(F) for a State with a paternity establishment percentage of less than 40 percent for such fiscal year, the paternity establishment

percentage of the State for the immediately preceding fiscal year plus 6 percentage points.

In determining compliance under this section, a State may use as its paternity establishment percentage either the State's IV-D paternity establishment percentage (as defined in paragraph (2)(A)) or the State's statewide paternity establishment percentage (as defined in paragraph (2)(B)).

(2) For purposes of this section—

(A) the term "IV-D paternity establishment percentage" means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of children—

(i) who have been born out of wedlock,

(ii) (I) except as provided in the last sentence of this paragraph, with respect to whom assistance is being provided under the State program funded under part A in the fiscal year or, at the option of the State, as of the end of such year, or (II) with respect to whom services are being provided under the State's plan approved under this part in the fiscal year or, at the option of the State, as of the end of such year pursuant to an application submitted under section 454(4)(A)(ii), and

(iii) the paternity of whom has been established or acknowledged,

bears to the total number of children born out of wedlock and (except as provided in such last sentence) with respect to whom assistance was being provided under the State program funded under part A as of the end of the preceding fiscal year or with respect to whom services were being provided under the State's plan approved under this part as of the end of the preceding fiscal year pursuant to an application submitted under section 454(4)(A)(ii);

(B) the term "statewide paternity establishment percentage" means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of minor children—

(i) who have been born out of wedlock, and

(ii) the paternity of whom has been established or acknowledged during the fiscal year,

bears to the total number of children born out of wedlock during the preceding fiscal year; and

(C) the term "reliable data" means the most recent data available which are found by the Secretary to be reliable for purposes of this section.

For purposes of subparagraphs (A) and (B), the total number of children shall not include any child with respect to whom assistance is being provided under the State program funded under part A by reason of the death of a parent unless paternity is established for such child or any child with respect to whom an applicant or recipient is found by the State to qualify for a good cause or other exception to cooperation pursuant to section 454(29).

(3)(A) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children in a State who are born out of wedlock or for whom support has not been established) that affect the ability of a State to meet the requirements of this subsection.

(B) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.^[161]

(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment pursuant to section 408(a)(3) is in effect) for assistance in establishing and enforcing support orders, including requests to locate noncustodial parents, establish paternity, and initiate proceedings to establish and collect child support awards.

(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part.

(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to a plan approved under this part during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year) or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater, which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements, for

(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

The amount appropriated under this subsection shall remain available until expended.

(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding \$2,500, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to paragraph (2).

(2) The Secretary of State shall, upon certification by the Secretary transmitted under paragraph (1), refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(3) The Secretary and the Secretary of State shall not be liable to an individual for any action with respect to a certification by a State

agency under this section.

(I) The Secretary, through the Federal Parent Locator Service, may aid State agencies providing services under State programs operated pursuant to this part and financial institutions doing business in two or more States in reaching agreements regarding the receipt from such institutions, and the transfer to the State agencies, of information that may be provided pursuant to section 466(a)(17)(A)(i), except that any State that, as of the date of the enactment of this subsection, is conducting data matches pursuant to section 466(a)(17)(A)(i) shall have until January 1, 2000, to allow the Secretary to obtain such information from such institutions that are operating in the State. For purposes of section 1113(d) of the Right to Financial Privacy Act of 1978^[162], a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.

(I) Comparisons With Insurance Information.—

(1) In general.—The Secretary, through the Federal Parent Locator Service, may—

(A) compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments; and

(B) furnish information resulting from the data matches to the State agencies responsible for collecting child support from the individuals.

(2) Liability.—An insurer (including any agent of an insurer) shall not be liable under any Federal or State law to any person for any disclosure provided for under this subsection, or for any other action taken in good faith in accordance with this subsection.

^[160] See Vol. II, P.L. 83-591, §6305.

^[161] See Vol. II, P.L. 100-485, §111(f)(3), with respect to the Secretary's collection of data necessary to implement the requirements of this subsection.

^[162] See Vol. II, P.L. 95-630, Title XI, §1113(d).

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