

Public Law 102-521
102d Congress

An Act

To impose a criminal penalty for flight to avoid payment of arrearages
in child support.

Oct. 25, 1992
[S. 1002]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

Child Support
Recovery Act of
1992.
18 USC 228 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) **IN GENERAL.**—Title 18, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 11A—CHILD SUPPORT

"Sec.

"228. Failure to pay legal child support obligations.

"§ 228. Failure to pay legal child support obligations

"(a) **OFFENSE.**—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

"(b) **PUNISHMENT.**—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

"(c) **RESTITUTION.**—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) **DEFINITIONS.**—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than one year, or is greater than \$5,000; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States."

(b) **TECHNICAL AMENDMENT.**—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

“11A. Child support 228”.

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

- (1) by striking “or” at the end of paragraph (20);
- (2) by redesignating paragraph (21) as paragraph (22);

and

- (3) by inserting after paragraph (20) the following new paragraph:

“(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or”.

SEC. 4. CRIMINAL CHILD SUPPORT ENFORCEMENT.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

42 USC 3797.

- (1) by redesignating part P as part Q;
- (2) by redesignating section 1601 as section 1701; and
- (3) by inserting after part O the following new part:

“PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

42 USC 3796cc.

“SEC. 1601. GRANT AUTHORIZATION.

“(a) IN GENERAL.—The Director of the Bureau of Justice Assistance may make grants under this part to States, for the use by States, and local entities in the States to develop, implement, and enforce criminal interstate child support legislation and coordinate criminal interstate child support enforcement efforts.

“(b) USES OF FUNDS.—Funds distributed under this part shall be used to—

- “(1) develop a comprehensive assessment of existing criminal interstate child support enforcement efforts, including the identification of gaps in, and barriers to, the enforcement of such efforts;

- “(2) plan and implement comprehensive long-range strategies for criminal interstate child support enforcement;

- “(3) reach an agreement within the State regarding the priorities of such State in the enforcement of criminal interstate child support legislation;

- “(4) develop a plan to implement such priorities; and

- “(5) coordinate criminal interstate child support enforcement efforts.

42 USC 3796cc-1.

“SEC. 1602. STATE APPLICATIONS.

“(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

“(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

“(b) STATE OFFICE.—The office designated under section 507 of title I—

“(1) shall prepare the application required under section 1602; and

“(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

“SEC. 1603. REVIEW OF STATE APPLICATIONS.

42 USC
3796cc-2.

“(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

“(1) the application is consistent with the requirements of this part; and

“(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

“(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

“(c) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

“SEC. 1604. LOCAL APPLICATIONS.

42 USC
3796cc-3.

“(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a local entity shall submit an application to the office designated under section 1602(b).

“(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

“(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

“(4) If an application under paragraph (1) is approved, the local entity is eligible to receive funds under this part.

“(b) DISTRIBUTION TO LOCAL ENTITIES.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to a local entity with an approved application within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

“SEC. 1605. DISTRIBUTION OF FUNDS.

42 USC
3796cc-4.

“The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the project described in the application submitted under section 1602(a) for the fiscal year for which the project receives assistance under this part.

“SEC. 1606. EVALUATION.

42 USC
3796cc-5.

“(a) IN GENERAL.—(1) Each State and local entity that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines

issued by the Director and in consultation with the Director of the National Institute of Justice.

“(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or local entity involved.

Public
information.

“(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

“(c) ADMINISTRATIVE COSTS.—A State or local entity may use not more than 5 percent of the funds it receives under this part to develop an evaluation program under this section.

42 USC
3796cc-6.

“SEC. 1607. DEFINITIONS.

“For purposes of this part, the term ‘local entity’ means a child support enforcement agency, law enforcement agency, prosecuting attorney, or unit of local government.”.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

“PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

“Sec. 1601. Grant authorization.

“Sec. 1602. State applications.

“Sec. 1603. Review of State applications.

“Sec. 1604. Local applications.

“Sec. 1605. Distribution of funds.

“Sec. 1606. Evaluation.

“Sec. 1607. Definitions.

“PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

“Sec. 1701. Continuation of rules, authorities, and proceedings.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9); and

(2) by adding at the end the following new paragraph:

“(10) There are authorized to be appropriated \$10,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.”.

42 USC 12301
note.

SEC. 5. COMMISSION ON CHILD AND FAMILY WELFARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Child and Family Welfare (referred to in this section as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members of whom—

(A) 3 shall be appointed by the President, in consultation with the Attorney General and the Secretary of Health and Human Services;

(B) 4 shall be appointed by the President pro tempore of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 4 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) persons who have expertise in family law, children's issues, mental health, and related policies;

(B) persons who have expertise, through research and practice, in laws and policies related to child and family welfare;

(C) persons who represent organizations that seek to protect the civil rights of children;

(D) persons who represent advocacy groups that work for the interests of children;

(E) persons who represent advocacy groups that work for the interests of both custodial and noncustodial parents; and

(F) persons who have conducted extensive research on, or delivered services to, children adversely affected by divorce.

(3) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1993.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) DUTIES.—The Commission shall—

(1) compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts and juvenile courts;

(2) compile a report that lists the strengths and weaknesses of the child welfare system as it relates to placement (including child custody and visitation), summarizes State laws and regulations relating to visitation, and makes recommendations for changing the system or developing a Federal role in strengthening the system;

(3) study the strengths and weaknesses of the juvenile and family courts as they relate to visitation, custody, and child support enforcement and suggest any recommendations for changing these systems; and

(4) study domestic issues that relate to the treatment and placement of children (such as child and spousal abuse) and suggest recommendations for any needed changes, including models for mediation and other programs.

(i) REPORT.—Not later than January 1, 1994, the Commission shall submit to the President and the Congress an interim report, and not later than January 1, 1995, a final report, which shall

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contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers to be appropriate.

(j) HEARINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) BROAD PUBLIC PARTICIPATION.—The Commission shall conduct hearings in various areas of the country, including inner cities, suburbs, and rural areas, to gather a broad spectrum of information on the issues to be addressed. Parents, children, experts, religious leaders, and public and private agency officials shall be afforded the opportunity to give testimony at such hearings.

(k) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission to the extent permitted by law.

(l) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(m) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(n) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(o) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and

other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(p) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(q) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(r) **TERMINATION OF THE COMMISSION.**—(1) The Commission shall terminate 90 days after the date on which the Commission submits its final report under subsection (i).

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on that date shall be disposed of as excess or surplus property.

(s) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Commission \$2,000,000 for fiscal years 1993 and 1994 to carry out this section.

(2) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

Approved October 25, 1992.

LEGISLATIVE HISTORY—S. 1002:

CONGRESSIONAL RECORD, Vol. 138 (1992):

Sept. 18, considered and passed Senate.

Oct. 3, considered and passed House, amended.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 25, Presidential statement.