NO-COST IMPROVEMENTS TO CHILD SUPPORT ENFORCEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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CONTENTS

NO-COST IMPROVEMENTS TO CHILD SUPPORT ENFORCEMENT

TUESDAY, MARCH 20, 2012

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:01 p.m., in Room 1100, Longworth House Office Building, the Honorable Geoff Davis [chairman of the subcommittee] presiding.

[The advisory of the hearing follows:]

HEARING ADVISORY

Chairman Davis Announces Hearing on No-Cost Improvements to Child Support Enforcement

Washington, Mar, 2012

Congressman Geoff Davis (R–KY), Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, announced today that the Subcommittee will hold a hearing on no-cost improvements to the child support enforcement (CSE) program. **The hearing will take place on Tuesday, March 20, 2012 in 1100 Longworth House Office Building, beginning at 2:00 P.M.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. Witnesses will include state child support enforcement officials and other experts. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The CSE program was created in 1975 in order to reduce public expenditures on welfare by obtaining support from noncustodial parents on an ongoing basis and to help non-welfare families get support so they could stay off public assistance. Today, this State-administered program has grown to serve all families that request services and is estimated to handle 50 to 60 percent of all child support cases. States and Territories receive over $4 billion annually in Federal administrative funds, which covers approximately two-thirds of the total cost of operating the CSE program. In FY 2010, the CSE program collected $26.6 billion in child support payments and served nearly 15.9 million child support cases. However, the program collects only 62 percent of current child support obligations for which it has responsibility.

In 2007, the United States was party to the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The Hague Convention aims to increase cooperation among nations for the international recovery of child support and other forms of family assistance. In order for the United States to fully ratify the Convention, Congress must approve and the President must sign implementing legislation that would amend Title IV–D of the Social Security Act and require States to update their child support laws by adopting amendments to the Uniform Interstate Family Support Act (UIFSA). This implementing legislation, which is designed to improve child support recovered in international cases, is expected to result in no additional State or Federal program costs.

Beyond the Hague Convention, other no-cost improvements to the CSE program expected to be reviewed in the hearing include improving data and information exchange among state courts and human services organizations, as well as expanding researcher access to the National Directory of New Hires (a database under the authority of the CSE program) in order to improve the evaluation of employment programs.

In announcing the hearing, Chairman Geoff Davis (R–KY) stated, "Ratification of the Hague Convention will mean that more children living in the United States will receive the financial support they deserve, even when one parent lives in another country. In addition, given the number of agencies involved in this issue, it is critical for technology to keep pace so families receive the support they need. This hearing will review several simple, no-cost ways of improving child support programs to achieve those goals, which I am hopeful Congress will pass in the near future."

FOCUS OF THE HEARING:

The hearing will focus on the implementing legislation for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and related CSE improvements.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. Attach your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Tuesday, April 3, 2012**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721 or (202) 225–3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://www.waysandmeans.house.gov/*.

Chairman DAVIS. Thank you for joining us today. Today we are going to review several no-cost ways to improve the Nation's child support enforcement program so more children can benefit from child support. These changes should have broad bipartisan support and hopefully can proceed to the House floor in the coming weeks.

The child support enforcement program was created in 1975 in order to reduce public expenditures on welfare. By obtaining support from non-custodial parents on an ongoing basis and helping

non-welfare families get support, more families could stay off public assistance.

Today this State-administered program has grown to serve all families that request services, and is estimated to handle 60 percent of all child support cases. It results in $26.6 billion in child support collections involving 15.9 million unique cases.

To carry out this work, States and Territories receive over $4 billion annually in Federal administrative funds, which covers approximately two-thirds of the total cost of the operating system. With the help of the experts who will testify today, we will review several no-cost ways to improve the child support enforcement program, increase child support collections, and better serve both families and taxpayers.

One way to increase collections and ensure that more children living in the United States receive the financial support they deserve is through ratification of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. That is a mouthful, but it really boils down to stepped-up efforts to collect support when one parent lives outside of the United States.

Before our subcommittee is the implementing legislation for the Hague Convention, which has bipartisan support, would have no cost for taxpayers, and is expected to increase collections in such cases. That will both help more children and reduce the need for taxpayer support in the form of welfare checks.

Another way to increase collections is to increase the subcommittee's bipartisan efforts to standardize data and improve the exchange of data within and across programs. The child support system already heavily relies on data exchanges, but it is important for those efforts to be consistent with our data standardization progress involving child welfare, TANF, and unemployment programs so we can improve the overall efficiency of government programs.

Continuing on the data exchange theme, we will also consider an Administration proposal to allow researchers access to data in the National Directory of New Hires, a database maintained by the child support enforcement program. This will help in evaluating whether employment programs are working as intended.

This is a classic example of what we hope will happen as we increase the exchange of data; we can use the data we already have in smarter ways to help evaluate and improve government programs so they work better for intended recipients and taxpayers alike.

We look forward to all of the testimony today. And we also look forward to working with our colleagues to improve how this program serves the children and families who depend on it, as well as ensuring it efficiently and effectively uses taxpayer dollars.

Before we move on to our testimony, I want to remind our witnesses to limit their oral arguments to five minutes. However, without objection, all of the written testimony will be made part of the permanent record.

On our panel this afternoon, we will be hearing from Kay Farley, Executive Director of the National Center for State Courts; and to introduce Marilyn Stephen, the director of the Office of Child Sup-

port in the Michigan Department of Human Services, I would like to recognize the chairman of the full committee, Mr. Camp, who shares a home state with Ms. Stephen.

And now I would like to recognize our full committee ranking member—Mr. Levin is not here.

I would like to recognize Chairman Camp to say a few words.

Chairman CAMP. Alright. Well, thank you, Chairman Davis. And again, I would like to welcome Marilyn Stephen, director of the Michigan Office of Child Support, to the hearing today.

Marilyn has served as director of the Office of Child Support since 2002 after having been an assistant prosecuting attorney in the child support division of the Office of the Prosecuting Attorney in Jackson, Michigan for several years. And as a proud resident of Michigan myself, I want to thank Marilyn for her many years of service to our great state.

I would also like to take this opportunity to recognize the efforts of the Michigan Department of Human Services, which includes the Office of Child Support, under the leadership of Maura Corrigan and Brian Rooney. As a former State Supreme Court Justice and the current director of the Michigan Department of Human Services, Maura Corrigan has worked tirelessly to ensure the well-being of children in Michigan.

I want to specifically highlight her work in child support enforcement, particularly to increase collections. Through her efforts, Maura has focused on the broad strategies of prevention, collaboration, and enforcement as a way to address the challenges and consequences of an underground economy.

And finally, I would like to mention Brian Rooney, who is the brother of Florida Congressman Tom Rooney and deputy director of the Michigan Department of Human Services. I want to thank him both for his past service in the Iraq War and present service to our State as deputy director, where he is not afraid to ask the hard questions and make sure that kids are first.

We are certainly lucky to have three such outstanding individuals working for the residents of the State of Michigan, and we are honored to have Ms. Stephen before the committee today to testify about improving child support enforcement programs and drawing on her extensive experience in Michigan.

So thank you, Chairman Davis, and I yield back.

Chairman DAVIS. Thank you, Mr. Chairman.

Also, we have with us Craig Burlingame, the chief information officer with Trial Court Information Services in the Massachusetts Court System; and Gordon Berlin, president of MDRC.

I would now like to recognize my good friend, Mr. Lewis from Georgia, representing Ranking Member Doggett today.

Mr. LEWIS. Thank you very much, Chairman Davis. Thank you for calling this bipartisan hearing. As you know, unfortunately Ranking Member Doggett is not able to attend today's hearing because his flight into D.C. was canceled due to storms. I would like to applaud you both for coming together yet again to address pressing issues before the subcommittee.

We all know that a parent's responsibility to his or her children does not end at our borders. That is why States seek an agreement with other countries to collect child support from non-custodial par-

ents. Unfortunately, this State-by-State approach leaves out many States, and the different legal procedures and standards can be costly and create loopholes and confusion.

A better approach would be for the United States as a whole to enter into a broader convention or treaty to ensure the international collection of child support. This way, we can move away from the piecemeal process and get everyone on the same page. I hope today's discussion will guide us in the right direction.

Hopefully, we can craft bipartisan legislation that would ensure our child support system can fully comply with such a treaty. This will lead to more children getting the financial support they need and deserve.

Mr. Chairman, Ranking Member Doggett and I look forward to continuing to work with you and other subcommittee members as we move forward with this important piece of legislation. Thank you very much again, Mr. Chairman.

Chairman DAVIS. Thank you, Mr. Lewis.

And with that, one vote has been called. We are going to temporarily recess the hearing for about 15 minutes, and then we will be back to pick up with the testimony of the witnesses and questions.

[Recess.]

Chairman DAVIS. We will go ahead and reconvene the hearing now. Thank you again for your flexibility and patience.

We are going to go ahead and begin with witness testimony. Ms. Farley, you may proceed with your testimony. And again, I would just remind the witnesses that we would ask you to keep it to five minutes, and that will allow more time for questioning by the members afterwards.

Proceed.

STATEMENT OF S. KAY FARLEY, EXECUTIVE DIRECTOR, NATIONAL CENTER FOR STATE COURTS

Ms. FARLEY. Chairman Davis and Members of the Subcommittee, thank you for the opportunity to testify today regarding implementation of the Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance. I am speaking today on behalf of the National Child Support Enforcement Association, and NCSEA thanks you for holding this hearing.

International child support enforcement is increasingly more common and important in our global society. By way of background, the U.S. has not joined the two prior child support treaties because of fundamental differences in how jurisdiction is obtained over parties in child support matters.

Unlike the U.S., other countries do not require due process protection sufficient to meet the U.S. constitutional standards. The U.S. has dealt with international cases by negotiating bilateral agreements with individual countries. While these bilateral agreements have been beneficial, procedures and forms vary from country to country.

The Hague Conference on Private International Law established a special commission in 2003 to develop a new child support treaty, which would modernize the existing system and encourage global

adoption. This effort offered the opportunity to craft a new treaty to which the U.S. could participate.

The objective of the Convention is to ensure effective international recovery of child support. The Convention creates four main measures to achieve that objective: establishing a comprehensive system of cooperation between the participating countries; making applications available for the establishment of parentage and child support matters; providing for recognition and enforcement of foreign support orders; and requiring effective measures for prompt enforcement of foreign support orders.

The Convention should result in more children receiving the financial support they need from their parents, regardless of where their parents live. While the U.S. courts and child support agencies already recognize and enforce most foreign child support orders, other countries have not recognized and enforced our orders. They will have to do so once they and the U.S. ratify the Convention.

The Convention's procedures are similar to those procedures already in place for processing interstate cases in the United States. Many of the provisions of the Convention are drawn from the U.S. experience with the Uniform Interstate Family Support Act, or UIFSA. The Convention will not affect the handling of our domestic child support cases; it will only apply to cases where the custodial parent and child live in one country, and the non-custodial parent lives in another.

International child support cases will be processed under existing U.S. Federal and State law and practice. Compliance with the obligations under the Convention will require minimal changes to the U.S. law. My written testimony provides information on key provisions to the Convention. You will note that for all of these provisions, they are consistent with current policy and practice in the U.S.

Let me briefly talk about how the Convention would be implemented in the U.S. The Uniform Law Commission developed and approved the 2008 UIFSA amendments to comply with the terms of the Convention. The intent is for Congress to require States to adopt these amendments verbatim or lose Federal funding.

The 2008 amendments were limited only to those changes required to comply with the Convention. Existing Articles 1 through 6 were modified to include foreign support orders, where procedures handling Convention cases would be the same as for handling domestic cases. The amendments do include a new Article 7, which will apply only to international cases and address those requirements unique to the Convention.

Let me turn now to why the U.S. should implement the Convention. In a world where an increasing number of U.S. children have a parent living abroad, this Convention is needed so that all children will receive the child support that is so vital to their financial well-being.

The Convention resolves the jurisdictional barriers that prevented the U.S. from joining the prior child support treaties. The Convention offers the U.S. the opportunity to join a multilateral treaty, saving the time and expense that would be otherwise required to negotiate individual bilateral agreements with countries.

The Convention provides a structure and uniform procedures to increase the efficiency and effectiveness in processing international cases. And, lastly, the Convention provides for access to cost-free or low-cost services for legal assistance to U.S. custodial parents.

NCSEA expressed its strong support for the Convention in a resolution which was adopted in August 2008. I also want to advise you that the Convention has widespread support from State organizations such as the Conference of Chief Justices, the Conference of State Court Administrators, the Uniform Law Commission, and the American Bar Association.

Thank you for the opportunity to present this testimony and for your consideration of our recommendations. Thank you.

[The prepared statement of Ms. Farley follows:]

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TESTIMONY

by

Kay Farley, Past President (2001-2002)

on

No-Cost Improvements to Child Support Enforcement

Submitted to the

HOUSE WAYS AND MEANS COMMITTEE
HUMAN RESOURCES SUBCOMMITTEE

Subcommittee Hearing
Tuesday, March 20, 2012
2:00 P.M.
1100 Longworth House Office Building
Washington, DC

Chairman Davis, Ranking Member Doggett, and members of the Subcommittee,

Thank you for the opportunity to testify today regarding implementation of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention).

My name is Kay Farley. I am speaking today on behalf of the National Child Support Enforcement Association (NCSEA). NCSEA is a membership organization that serves the national and international child support community through professional development, communication, public awareness, and advocacy to enhance the financial, medical, and emotional support that parents provide for their children. Our membership includes child support professionals, program administrators, judges, administrative hearing officers, attorneys, court personnel, private sector service providers, and advocates for children and families. NCSEA applied for and was granted non-governmental organization observer status for negotiations of the Convention. NCSEA's delegation actively participated throughout the negotiations (2003-2007) and continues to participate to assist with implementation of the Convention.

International child support enforcement is increasingly more common and important in our global society. NCSEA thanks you for scheduling this hearing for your consideration of implementation of the Convention.

Background

There are two prior international child support treaties.[1] The United States (US) has not joined these treaties in large part because of fundamental differences in how jurisdiction is obtained over the parties. In most countries around the world, except the United States, jurisdiction to order child support is based on the habitual residence of the custodial parent. This is the jurisdictional basis for both the New York and Hague Maintenance Conventions. By contrast, in the US, jurisdiction for child support matters is based on the ability of the court to obtain personal jurisdiction over the noncustodial parent, requiring a showing of sufficient minimum contacts of the noncustodial parent with the forum state to meet constitutional standards of due process, as set forth by the U.S. Supreme Court in the case of *Kulko v. Superior Court*.[2]

Because the US has been unable join one of the international treaties, the US has dealt with international cases by negotiating bi-lateral agreements with individual countries. The US currently has bi-lateral agreements with 14 countries[3] and 10 Canadian provinces

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[1] Convention on the Recovery Abroad of Maintenance, June 20, 1956, 1268 U.N.T.S. 349, available at http://untreaty.un.org/unts/60001_120000/9/00016561.pdf. Hague Convention of 1958 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations in Respect of Children and Hague Convention of 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations, available at website for The Hague Conference on Private International Law at www.hcch.net.

[2] *Kulko v. Superior Court*, 436 U.S. 84 (1978).

[3] Australia, the Czech Republic, El Salvador, Finland, Hungary, Ireland, Israel, The Netherlands, Norway, Poland, Portugal, the Slovak Republic, Switzerland, and the United Kingdom.

and territories[4]. US states also have authority to negotiate bi-lateral agreements with other countries. While these agreements have been beneficial, procedures and forms vary from country to country.

The Hague Conference on Private International (Hague Conference) established a Special Commission in 2003 to develop a new international child support and family maintenance obligations treaty, which would modernize the existing system and encourage global adoption. This Special Commission offered the opportunity to craft a new treaty in which the US could participate.

Introduction to the Convention

The objective of the Convention is to ensure the effective international recovery of child support. The Convention creates four main measures to enable the achievement of that objective: (1) establishing a comprehensive system of co-operation between the authorities of the participating countries; (2) making applications available for the establishment of parentage and child support orders; (3) providing for the recognition and enforcement of support orders; and (4) requiring effective measures for the prompt enforcement of foreign support orders.

The Convention should result in more children residing in the US receiving the financial support they need from their parents, regardless of where the parents live. While courts and child support agencies in the US already recognize and enforce most foreign child support obligations, many foreign countries have not been processing foreign child support requests from the US. They will have to recognize and enforce US support orders once they and the US ratify the Convention. In addition, the Convention is expected to improve administrative cooperation dramatically, making it easier for US and foreign child support workers to successfully handle international cases efficiently and effectively.

The Convention's procedures are similar to those procedures already in place for the processing of interstate child support cases in the US. Many of the provisions of the Convention were drawn from the US experience with the Uniform Interstate Family Support Act (UIFSA).

The Convention will not affect intrastate or interstate child support cases in the US. It will only apply to cases where the custodial parent and child live in one country and the non-custodial parent lives in another country.

International child support cases within the scope of the Convention will continue to be processed under existing federal and state law and practice. Compliance with US obligations under the Convention will require minimal changes to existing US law.

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[4] Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Saskatchewan, and Yukon Territory.

Key Provisions of the Convention

Scope

The Convention applies to support orders arising from a parent-child relationship towards a child under the age of 21. The US state child support enforcement agencies currently provide the required services for children under the age of 21. The Convention also applies to the recognition and enforcement of spousal support when the application is made in conjunction with a claim for child support, also consistent with current policy in the US. A foreign applicant seeking assistance to only enforce a spousal support order will have to file an action directly with a US state court.

Central Authority

Each participating country must designate a "Central Authority" responsible for (1) cooperating with other Central Authorities and promoting cooperation among their state competent authorities and (2) seeking solutions to difficulties arising in the application of the Convention. The US intends to designate the Secretary of the Department of Health and Human Services as the Central Authority for this Convention.

The US also intends to delegate to individual state child support enforcement agencies its responsibilities under the Convention for transmitting and receiving applications and initiating or facilitating proceedings relative to these applications. These responsibilities, detailed in the Convention, are viewed as those functions essential to ensure that children receive support. The responsibilities are similar to those currently performed by state child support agencies under UIFSA.

Applications Made Through the Central Authority

An applicant seeking services under the Convention must make the application through the Central Authority of the country in which the applicant resides. In the US, applications will be made through the state child support enforcement agencies. The Convention includes eight provisions that must, at a minimum, be included in each application, including information to identify the applicant and respondent and the grounds for the application. The application must also include known financial and employment information of the applicant and respondent. The application must be accompanied by any supporting information and documentation concerning the entitlement of the applicant to free legal assistance.

In November 2009, the Special Commission met and approved recommended forms for applications and other supporting documents which countries may use. It is expected that the recommended forms will be used widely and should result in faster, more efficient, and more accurate processing of applications.

Transmittal, Receipt and Processing of Applications

The Central Authority in the requesting country is responsible for assisting the applicant to prepare a complete application and transmitting the application to the requested country. To reduce the cost and time of processing most cases, documents need not be certified unless specifically requested by the responding country's Central Authority.

The Convention establishes several timeframes in order to ensure that applications are processed in a timely manner. Both the requesting and requested Central Authorities are required to provide timely responses to communication and keep each other informed of the progress of the case and who's responsible for the processing of the case.

In November 2009, the Special Commission also approved a uniform Country Profile format. Using this format, each country that is a party to the Convention will document their relevant federal and state laws and procedures. This information will be posted on the Hague Conference's website and will be valuable information for caseworkers in determining the type of application to submit and anticipating the enforcement measures that will be used.

Legal Assistance
The Convention requires the provision of free legal assistance. Countries must provide the assistance necessary to enable applicants to know and assert their rights and to ensure that applications are fully and effectively dealt with in the requested country. The means of providing such assistance may include, as necessary, legal advice, assistance in bringing a case before an authority, legal representation, or exemption from cost of proceedings.

Cost of Services, Including Legal Assistance
The Convention recognizes that most child support applicants who use government child support programs are people of modest means who would be unable to pursue recovery of child support if they had to pay high fees, including fees for legal services. As a general standard for applications made through a Central Authority, countries must provide applicants with effective access to procedures, including enforcement and appeal procedures and, where necessary, access to free legal assistance. While a country has the option of declaring that it will condition the provision of free legal assistance on the result of a means test of the child, it is expected that the US and most countries will not make such a declaration.

Restriction on Bringing Proceedings
To reduce the potential for conflicting support orders, obligors seeking to modify an existing support order established in a country where the obligee continues to reside must initiate any action to modify an existing order or establish a new order in the country of the obligee's residence. This provision is similar to current state law under UIFSA.

Recognition and Enforcement of Child Support Orders
To eliminate lengthy delays in the enforcement of foreign child support orders, the Convention sets forth a streamlined system, similar to the process used in the US under UIFSA. The Convention also lists the only documents that can be required to accompany an application, eliminating the onerous and costly document requirements now required by some foreign countries; these documents do not need be certified unless challenged or requested by a competent authority in the requested country.

While the Convention establishes six factors that would require a country to recognize and enforce a support order, the US intends to take a reservation with respect to the following three factors:

- Jurisdiction based on the residence of the custodial parent (in that there is no nexus between the noncustodial parent and the forum);
- Jurisdiction based solely on the parties' agreement to the forum taking jurisdiction, when the forum has no nexus to either party; and
- Jurisdiction based solely on jurisdiction over the marriage, even though the forum does not have personal jurisdiction over the parties.

Enforcement

Enforcement takes place in accordance with the law of the requested country, and in the US, in accordance with the substantive law of the state. Enforcement must be prompt. As in the US, recognition and actual enforcement must be a single proceeding, eliminating the need for applicants to file a separate action to get actual enforcement. Any limitation on the period for which arrears may be enforced is determined by whichever country has the longer period, identical to the limitation under UIFSA. Countries must provide at least the same range of enforcement methods for cases under the Convention as are available in their own domestic cases. Countries are required to have effective measures for prompt enforcement of support orders under the Convention. While no specific measures are required, the Convention lists examples of effective measures for educational purposes. All of the measures listed in the Convention are currently employed in the US. In addition, countries are encouraged to promote the most cost-effective and efficient methods for transferring child support payments.

A country may refuse to recognize or enforce a support order if:

- Recognition or enforcement is manifestly incompatible with the public policy of the requested country;
- The respondent has neither appeared nor was represented in the proceedings when either the law of the country (1) provides for notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard or (2) does not provide for notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to challenge or appeal it on fact and law;
- The order was obtained by fraud in connection with a matter of procedure;
- Proceedings between the same parties and having the same purpose are pending before an authority of the country addressed and those proceedings were the first to be instituted; or
- The order is incompatible with an order rendered between the same parties and having the same purpose.

General Provisions

Other provisions of the Convention include the following:

- Limitation on the use of personal data to the purpose for which it was gathered and shared;

- Re-enforcement of the responsibility to ensure that information is kept confidential in compliance with the laws of the country;
- Provision that information gathered or transmitted in an application shall not be disclosed if to do so could jeopardize the health, safety or liberty of a person;
- Requirement that the Central Authorities take into account determinations made by other Central Authorities in cases of family violence; and
- Authorization for the recovery of costs from an unsuccessful party, as long as the recovery of costs does not take precedence over the recovery of the child support.

These general provisions are also consistent with US policy.

How the Convention Would be Implemented

The Uniform Law Commission developed and approved the 2008 UIFSA Amendments to comply with the terms of the Convention. The intent is for Congress to require states to adopt the 2008 UIFSA Amendments verbatim or lose federal funding for the state child support enforcement program.

The 2008 amendments were limited to only those changes required to comply with the requirements of the Convention. Existing Articles 1-6 were modified to include "foreign support orders" when procedures for handling Convention cases would be the same as in current UIFSA procedures for domestic cases. The 2008 UIFSA Amendments include a new Article 7: Support Proceeding Under Convention, which will apply only to international cases and address the requirements unique to the Convention. If there is a conflict between the provisions of Article 7 and the other parts of UIFSA, Article 7 governs.

Under the new UIFSA Article 7, if the US cannot recognize a foreign support order because it was based on the residence of the custodial parent (rather than personal jurisdiction over the noncustodial parent), the US state court is directed to recognize the foreign order if, under the facts of the case, there was any basis under which the court issuing the order would have had jurisdiction under US law. If the US state court still cannot recognize the foreign support order, the US state court is instructed to enter a new child support order.

Under Article 7obligees may seek the establishment of support orders, including, if necessary, the determination of parentage of a child. Obligees may also request the modification or enforcement of a state or foreign support order. Obligors may seek modification of a state or foreign support order, or request an order limiting enforcement of an existing court order.

The revisions to UIFSA would permit parties to register foreign support orders. It also creates a procedure to enable parties to contest the registration of a foreign support order. A US state court may refuse recognition and enforcement of a registered order on specified grounds, including:

- Doing so would be manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
- The issuing tribunal lacked jurisdiction;
- The order is not enforceable in the issuing country;
- The order was obtained by fraud;
- The transmitted record lacks authenticity or integrity;
- A proceeding between the same parties and having the same purpose is pending before that state's court and that proceeding was the first to be filed; or
- The order is incompatible with a more recent support order entitled to recognition.

Similarly, parties may register "foreign support agreements," which may be enforced unless the US state court, on its own motion, finds that recognition and enforcement would be manifestly incompatible with public policy, or, if contested, on grounds similar to those outlined above for contests of foreign support orders.

Why the United States Should Implement the Treaty

In a world where an increasing numbers of US children have a parent living abroad, this Convention is needed so that all children can receive the child support that is so vital to their financial well-being.

Reciprocity through a Multi-lateral Treaty
The Convention offers the US the opportunity to join a multi-lateral treaty, saving the time and expense that would otherwise be required to negotiate and implement bi-lateral agreements with individual countries around the world.

Resolution of Jurisdictional Barriers
The Convention resolves the jurisdictional barriers that have prevented the US from joining the prior international child support treaties. The Convention provides for residence of the custodial parent in the forum as a basis for jurisdiction, but it also permits participating countries, such as the United States, to take a reservation on this provision so that we can adhere to our requirement of personal jurisdiction over the noncustodial parent.

Administrative Cooperation
The Convention provides a structure and uniform procedures to increase the efficiency and effectiveness of processing international cases.

Access to Cost-free Services
The Convention provides for access to cost-free services and legal assistance to custodial parents needing child support enforcement services in a participating country. This is a particularly important reciprocal provision for US children, since Title IV-D child support agencies provide cost-free services where residents of foreign countries are seeking enforcement against a noncustodial parent living in the US.

Conclusion

NCSEA expressed its strong support for the Convention in a resolution, *Supporting Ratification of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and Supporting Conforming Changes at the Uniform Interstate Family Support Act*, which was adopted on August 8, 2008. I want to also advise you that the Convention has widespread support from state organizations, such as the Conference of Chief Justices, Conference of State Court Administrators, the Uniform Law Commission, and the American Bar Association.

Thank you for the opportunity to submit this testimony and for your consideration of our recommendation.

Chairman DAVIS. Thank you, Ms. Farley.
Ms. Stephen, please proceed.

STATEMENT OF MARILYN STEPHEN, DIRECTOR, OFFICE OF CHILD SUPPORT, MICHIGAN DEPARTMENT OF HUMAN SERVICES

Ms. STEPHEN. Thank you very much, Chairman Davis and Members of the Subcommittee, for this opportunity. As you know, I am the director of the Michigan Office of Child Support, but I am speaking to you today on behalf of the many child support professionals across the country who are members of National Child Support Enforcement Association.

Michigan passed the first child support law in 1919 to permit local governments to assure support for the children in their communities. The drafters of that law would never have dreamt that in 2012, there would be 750,000 court-ordered child support cases in Michigan, and that one in three children would be spending a part of their childhood living with only one parent.

Those same drafters would not have recognized a world where something oddly named a tweet can circle the globe in seconds, and American citizens can travel thousands of miles from home in just a few hours.

In the last 60 years, it has become commonplace for parents and families to move from state to state. In many ways, the child support programs kept pace with these changes in society. First, Congress required States to enact the Uniform Reciprocal Enforcement of Support Act in the 1950s that set some ground rules for assuring financial support for children no matter where in the country the parent lived.

As the migration of families across the country continued and child support programs in the State swelled, problems arose with the processing of interstate cases that finally precipitated a complete redesign in the 1990s, resulting in the Uniform Interstate Family Support Act. This law has been a great success in helping States to provide coordinated services consistently and efficiently to ensure that children receive the support that they need.

Now we are on the verge of the next big step forward with the Hague Convention and implementing legislation that we are discussing today. To help you understand how important this step is to the States, I would like to tell you a little about the problems we face in trying to assure support for the children of Americans around the world.

There are basic issues related to the translation of documents and currency exchange rates. But there are also fundamental differences in processes, jurisdictional understandings, the services provided in different countries, and even the basic definitions of who will be served.

My front-line staff in Michigan report constant issues with trying to locate parents in other countries that owe child support; concerns about how notice to that parent, or what we in this country would call due process or even service of process, is accomplished; and the amount of time it takes to start support payments flowing to the parent who is raising the child.

It is commonplace to hear that families have had to wait five years or more for a support obligation to be established, and this is with countries that we have agreed to work with through bilateral agreements. To me, the bilateral agreements are analogous to

the old interstate laws of the 1950s. They are certainly better than nothing, but they do not establish any rules or mutual understandings about the work that needs to be done or the goals that should be accomplished.

When our workers attempt to coordinate with officials in countries where we lack bilateral agreements, we generally receive no response whatsoever, or we are instructed to hire a lawyer in that country. Because most parents cannot afford to go down that path, the child support case ends up being closed until the support obligor leaves the safe haven of that country. The Hague Convention would fix this problem by requiring free services in most instances.

In Michigan, we estimate that we have between 4- and 5,000 cases where a parent lives in another country. That includes more than a thousand cases with Canada, with whom we share a 700-mile border. International cases can be challenging and very time-consuming for workers because there are no agreed-upon standard proofs, forms, or methods of communication. For this reason, I believe adoption of the Hague Convention and the enabling legislation would actually result in a cost savings to the States.

Earlier I called this a big step. But all the States understand that we will not see instant benefits from these improvements. We also know with certainty that not moving down this road to international cooperation will likely mean that more American children will lack the basic support that every parent should provide, and that more obligors will seek out those safe havens. Simply put, children need the support of both parents no matter where in the world their lives take them.

Thank you very much for your consideration of this important children's issue.

[The prepared statement of Ms. Stephen follows:]

National Child Support Enforcement Association (NCSEA)

Testimony by

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on

No Cost Improvements to Child Support Enforcement

Submitted to the

House Committee on Ways and Means
Subcommittee on Human Resources

Subcommittee Hearing
Tuesday, March 20, 2012
2:00 P.M.
1100 Longworth House Office Building
Washington, D.C.

Chairman Davis and members of the Subcommittee, thank you for the opportunity to speak with you today. My name is Marilyn Stephen and I am the director of the Michigan Office of Child Support. I am speaking to you today on behalf of the child support professionals across the country who are members of the National Child Support Enforcement Association.

The first child support law in Michigan was passed in 1919 to permit local government to assure support for children in their communities. The drafters would never have dreamt that in 2012 there would be 750,000 court ordered child support cases in Michigan and that one in three children nationwide would spend some part of their childhood living with only one parent.

Those same drafters would not recognize a world where a something oddly named a 'tweet' can circle the globe in seconds and American citizens can travel thousands of miles from home in just a few hours. In the last sixty years, it has become commonplace for parents and families to move from state to state. In many ways, the child support program has kept pace with these changes in society. First Congress required states to enact the Uniform Reciprocal Enforcement of Support Act in the 1950s that set some ground rules for assuring financial support for children no matter where in the country the parent lived. As the migration of families across country continued and child support programs in the states swelled, problems arose with the processing of interstate cases

that finally precipitated a complete redesign in the late 1990s resulting in the Uniform Interstate Family Support Act. This law has been a great success in helping states to provide coordinated services consistently and efficiently to ensure that children receive the support they need.

Now we are on the verge of the next big step forward with the Hague Convention and implementing the legislation we are discussing today. To help you understand how important this step is to the states, I'd like to tell you a little about the problems we face in trying to assure support for the children of Americans around the world. There are basic issues related to translation of documents and currency exchange rates, but there are also fundamental differences in processes, jurisdictional understandings, the services provided in different countries and even the basic definitions of who will be served. My front line staff report constant issues with trying to locate parents in other countries who owe child support, concerns about how notice to that parent or what we in the US call service of process is accomplished and the amount of time it takes to start the support payments flowing to the parent who is raising the child. It is commonplace to hear that families have had to wait five years or more for a support obligation to be established, and this is in countries that we've agreed to work with through bi-lateral agreements.

To me, the bi-lateral agreements are analogous to the old interstate law from the 50s. They are better than nothing, but they do not establish any rules or mutual understandings about the work that needs to be done or the goals that should be

accomplished. When our workers attempt to coordinate with officials in countries where we lack bi-lateral agreements, we generally receive no response or we are instructed to hire a lawyer in that country. Because most parents cannot afford that path, the child support case ends up being closed until the support obligor leaves the safe haven of that country. The Hague Convention would fix this problem by requiring free services in most instances.

In Michigan we estimate that we have between four and five thousand cases where a parent lives in another country. That includes more than a thousand cases with Canada with whom we share a 700 mile border. International cases can be challenging and very time consuming for workers because there are no agreed upon standard proofs, forms or methods of communication. For this reason, I believe that adoption of the Hague Convention and enabling legislation would actually result in cost savings to the states.

Earlier I called this a big step, but all the states understand that we will not see instant benefits from these improvements. We also know with certainty that not moving down this road to international cooperation will likely mean that more American children will lack the basic support that every parent should provide and that more obligors will seek out safe havens. Simply put, children need the support of both parents no matter where in the world their lives take them.

Thank you for your consideration of this important children's issue.

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Chairman DAVIS. Thank you very much, Ms. Stephen.

Mr. Burlingame, you can give your testimony.

STATEMENT OF CRAIG D. BURLINGAME, CHIEF INFORMATION OFFICER, TRIAL COURT INFORMATION SERVICES, MASSACHUSETTS COURT SYSTEM

Mr. BURLINGAME. Thank you, Chairman Davis, Members of the Subcommittee. Thank you for the opportunity to testify on the important issue of technology standards in child support enforcement. My name is Craig Burlingame, and I am the chief information officer for the Massachusetts Trial Court. I testify today with

over 30 years of information technology experience in State and local government.

In addition to my day job, I have the privilege of serving as the chairman of the Court Information Technology Officers Consortium, or CITOC. CITOC is a national organization of technology professionals in courts, with active members in over 40 States. CITOC provides our members with a forum through which we can exchange information, ideas, and share our collective experiences.

Throughout my career, I have had the chance to observe the benefits that can be realized from the implementation of technology standards like those I believe are contemplated by your legislation. Good standards establish a technological vocabulary that allow various parties with different perspectives to speak in the same language when discussing electronic information and data exchange.

Further, the existence of quality standards provide a level playing field for the vendors that provide software and services to government entities that choose to use them. If a vendor is asked to implement a system in adherence to referenced standards, some of the uncertainty that exists in government procurements can be eliminated or at least reduced.

As importantly, once a vendor has implemented a system in compliance with standards, the effort needed for subsequent implementations is reduced, preventing agency after agency from having to pay for customized systems, at least in those areas that are covered by the standards.

One need look no further than public safety for longstanding examples of where standards have established a vocabulary to the benefit of taxpayers. Both with the FBI's NCIC system and the National Law Enforcement Telecommunications System, or NLETS, States and municipalities have been able to exchange information using standards for decades with these systems. In both of these cases, a vibrant and robust vendor community sells software and hardware solutions to criminal justice agencies nationwide that interoperate with NCIC and NLETS.

When an agency purchases a system, they need only indicate to a prospective vendor the nature of the business they wish to transact and reference the applicable standards. In the case of the court community, the OASIS Electronic Court Filing standard has been evolving since it was first developed in 2001.

In its most recent version, the ECF standard covers not only court filings but the electronic service of parties, and encompasses a variety of case types. This standard, which is now being used by courts and vendors in jurisdictions throughout the country, has been updated in its most recent version for compliance with NIEM, the National Information Exchange Model, which is contemplated by your legislation as well. When the Commonwealth recently issued an RFI for electronic filing, in our conversation with prospective vendors we were able to talk to them about how we expected the software to use ECF standards to transact business with our established case management system. Most vendors selling electronic filing products today understand exactly what that means and what is necessary for their software to use these standards.

And, as importantly, many of the vendors in the e-filing space have already built the software needed to interface with existing systems using ECF standards. As a result of this, the cost to implement such interfaces is minimal compared to the cost of developing customized solutions from scratch.

Although I am not testifying today on behalf of NIEM, I certainly am testifying in support of NIEM. The NIEM model is now being used in many aspects of government around the country, and not just within the justice community. As you may know, NIEM currently has 12 different domains, including children, youth, and family services.

Because we in the courts deal with matters that come before us from a wide range of other governmental agencies and areas, we would hope that any standards developed in the child support enforcement area would be developed using the NIEM framework. I have included in my written testimony a few examples of where NIEM is being used successfully in the court community today, as well as information on what we are doing in Massachusetts.

In conclusion, I believe the legislation that you are contemplating today is helpful and important, and I would encourage the committee to continue to advocate for the use of technology standards in the future. Such standards can reduce the cost of systems and increase the likelihood of interoperability among systems. The use of technology standards can indeed establish a common vocabulary for all to use in facilitating good and efficient government. Thank you.

[The prepared statement of Mr. Burlingame follows:]

The Commonwealth of Massachusetts
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Honorable Robert A. Mulligan
Chief Justice for Administration and Management

Craig D. Burlingame
Chief Information Officer

Data Standards and Electronic Information Exchange Child Support Enforcement

Craig D. Burlingame
Chief Information Officer
March 20, 2012

I would like to thank the Committee for the opportunity to present this written testimony regarding data standards and electronic information exchange in Child Support Enforcement cases.

I am the Chief Information Officer for the Massachusetts Trial Court and have had the privilege of serving in this capacity for the past eight years. I offer this testimony based on over thirty years of Information Technology experience in State and Local Government in the Commonwealth's Executive Branch and the Judicial Branch, and in municipalities. During my career I have been fortunate to serve as the CIO for the City of Boston and Mayor Thomas M. Menino, as the CIO for the Executive Office of Public Safety under several public safety cabinet secretaries, and as an Assistant Commissioner at our Department of Social Services (now Department of Children and Families) during our State-Wide Child Welfare Information System (SACWIS) implementation. I also served for several years as the Executive Director of our State Criminal History Systems Board which operates the state-wide Criminal Justice Information System for the Commonwealth.

In addition to my "day job" I have the honor of serving as the current Chair of the Court Information Technology Officers Consortium or CITOC. CITOC is a national organization of technology professionals, such as myself, who serve as CIO's or CTO's in State, County and Municipal Courts around the country. CITOC currently has active members in over 40 states and provides a forum through which our members can exchange information, ideas, and experiences in information management and the automation of court business throughout the United States.

Lastly, I serve as the Chair of the Standards Committee of the Joint Technology Committee (JTC) of COSCA and NACM. COSCA is the Conference of State Court Administrators (http://cosca.ncsc.dni.us) and NACM is the National Association of Court Management (http://www.nacmnet.org).

Throughout my career I have had a number of opportunities to observe the benefits that can be realized from the implementation of technology standards similar to those, I believe, that are contemplated by your legislation.

Sound standards establish a technological vocabulary that allows parties with various perspectives to speak the same language when discussing electronic information and data exchanges. Further, the existence of quality standards provides a level playing field for the vendors that provide software and services to the governmental entities using them. If a vendor is asked to build or implement systems in adherence to referenced standards, some of the uncertainty that exists in government purchasing can be removed. As importantly, once a vendor has implemented a system in compliance with a standard, the effort needed for subsequent implementations is reduced, thus preventing agency after agency from having to pay for customized systems in those areas covered by the standards.

One need look no further than Public Safety for long-standing examples of instances where standards have played a key role in establishing a technology vocabulary to the benefit of tax payers. Both with the FBI's NCIC System and the National Law Enforcement Telecommunications System (NLETS), states and municipalities have been exchanging information using standards for decades. In both of these cases a vibrant and robust vendor community sells software and hardware solutions to criminal justice agencies nationwide that are compliant with and interoperate with NCIC and NLETS. When an agency purchases a system, they need only indicate to a prospective vendor the nature of the business they wish to transact and reference the applicable NCIC/NLETS standard.

In the case of the court community, the OASIS Electronic Court Filing standard has been evolving since its first version was developed in 2001. In its most recent version, the ECF 4.0 standard covers not only court filings but the electronic service of parties and encompasses a variety of specific case types. This standard, which is now being used by courts and vendors in various jurisdictions around the country, has been updated for compliance with NIEM, the National Information Exchange Model.

When the Commonwealth of Massachusetts recently issued a Request for Information (RFI) for Electronic Filing, our conversation with prospective vendors included a discussion of how we expected the software to utilize ECF 4.0 transactions to communicate with our established case management system. Most vendors selling electronic filing products today understand exactly what this means and what is necessary for their software to use these standards. And, as importantly, many of the vendors in the e-filing space have already built the software needed to interface to existing systems using ECF 4.0, so that the cost to implement such interfaces is minimal compared to the cost of developing a customized solution.

Although I am not testifying on behalf of NIEM today, I am testifying in support of NIEM as it relates to any standards contemplated by this legislation. The NIEM model is now being used in many aspects of government around the country and not just within the Justice domain. In fact, NIEM currently has twelve different domains targeting various disciplines including one of the newer additions "Children, Youth and Family Services." This domain already includes a number of Information Exchange Package Definitions (IEPD) worthy of review before new/different standards are developed. For example there are child support exchanges for "request remedy" and "support order" and several other child welfare exchanges. A list of defined standard exchanges can be found at www.ncsconline.org/d_tech/gjxdm/IEPD.asp. Because we in the courts deal with matters that come before us from a range of other governmental disciplines, we would hope that any standards developed in the child support enforcement area would be developed using the NIEM framework and dictionaries. Finally I would hope any new work builds upon that which has been done already and does not make obsolete the good work already completed in this area.

Electronic information exchanges are occurring today in several exemplar states. I have selected a few I believe to be worthy of specific mention.

In Colorado, I would highlight the Data Information Sharing (DISH) system. DISH allows the Colorado Department of Human Services Division of Child Support Enforcement (CSE) to collaborate with the Colorado Judicial Department. This system facilitates real-time data exchange in child support cases with the court. DISH builds on work conducted by the Federal Office of Child Support Enforcement (OCSE) to encourage collaboration between courts and child support agencies, and specifically on work to create an adaptable means of electronic case filing and information exchange.

DISH was created using modern technology standards including NIEM. Unlike the historical paper dependent systems in Colorado, this solution is intended to expedite child support orders, reduce redundant data entry, and improve data accuracy.

In Missouri, the Missouri Juvenile Justice Information System (MOJJIS) also has been developed using the NIEM standards. This centralized system allows participating agencies to easily identify children and families receiving state services by searching a single centralized index. The MOJJIS index includes data from the Missouri Courts as well as the Department of Social Services (Children's Division, Division of Youth Services and Family Support Division), the Department of Health and Senior Services, and the Department of Mental Health.

In my own State of Massachusetts, the Commonwealth's new court case management system, *MassCourts,* is using a NIEM compliant exchange to send copies of judicial orders in Child Welfare cases from our Probate and Family Court divisions to our Department of Children and Families (DCF). This exchange was developed with our Executive Office of Health and Human Services (EOHHS) and uses a common Executive Branch document management system to securely store these electronic documents. We intend to reuse this standard-based exchange to send copies of other key court documents to other human service agencies under the EOHHS umbrella in the future. In addition to our orders information exchange now in use, we are working to implement two additional NIEM-based exchanges with our DCF. The first additional exchange involves the courts sending information to DCF about scheduled case events in child welfare cases. The second exchange will allow DCF to file specific petitions with the court in child welfare cases. Because these exchanges have been built using NIEM and web services, they can be easily repurposed in the future to send similar information on CSE cases to our I-V D agency (Department of Revenue Child Support Enforcement Division) as they work to bring the Commonwealth's new CSE system online.

As previously mentioned, in many states the OASIS ECF standard is being used by various courts to facilitate Electronic Filing systems. Although not designed specifically for CSE case filings, the standard is flexible enough and extensible such that it can used to support key filing activities between state I-V D agencies and court systems.

Although each court's business practices and requirements vary from jurisdiction to jurisdiction, NIEM and the ECF standards provide a robust and flexible architecture that should be included in any conversations regarding the development of further standards for data exchange between Courts and I-V D programs across the country. Also it is important to remember that facilitating interfaces between courts and state I-V D agencies around the country may be easier in those judicial branches, like my own, where a single technology infrastructure supports the entire state court system. This model does not exist in many states and technology and system infrastructures can vary significantly from county to county, jurisdiction to jurisdiction.

Standards like ECF and NIEM are not a silver bullet, nor should they be seen as a panacea that should be expected to solve data management or information exchange problems quickly or "out of the box." In fact a standards-based approach may not be the preferred, or most cost effective, approach for some organizations. Instead it provides tools and a framework to assist technology and business practitioners, along with our vendors, to discuss business processes and data requirements using an established vocabulary. How that vocabulary and the standards are implemented will vary from jurisdiction to jurisdiction and from I-V D agency to I-V D agency. That said, the development of further standards and information exchange specifications in support of CSE activities would build a further technological foundation upon which systems can be created or existing systems enhanced in the future.

In conclusion, I believe the legislation you are contemplating is helpful and important, and I encourage this Committee to continue to advocate for the use of technology standards in future legislation. Such standards can reduce the cost of systems and increase the likelihood of interoperability among systems. As the quantity and complexity of the systems we operate increases, standards can help to insure that a common vocabulary exists for all of us to use in facilitating good and efficient government.

Thank You.

Existing child support and Child Welfare IEPD overview from National Center for State Courts (www.ncsconline.org/d_tech/gjxdm/IEPD.asp)

Chairman DAVIS. Thank you very much, Mr. Burlingame. Mr. Berlin.

STATEMENT OF GORDON L. BERLIN, PRESIDENT, MDRC

Mr. BERLIN. Chairman Davis and Members of the Subcommittee, thank you for the invitation to testify today. My remarks focus on the research uses of the National Directory of New Hires database.

Every year, often at the direction of Congress, Federal agencies contract with independent research organizations to conduct evaluations of the effectiveness of government programs. In nearly every case, a key measure of effectiveness is the program's long-term effects on participants' employment and earnings.

One of the most reliable sources of earnings and employment data is collected by States from employers as part of the administration of the unemployment insurance system. Currently, an evaluator acting as an agent of the Federal Government must obtain these data from each State agency. Because evaluations of governmental programs take place in multiple jurisdictions, the evaluator must spend considerable resources to ascertain the State's requirements for data acquisition and then apply separately to each State for the data.

The significant costs of data acquisition efforts are passed on to the Federal agency and, ultimately, to taxpayers. It is an unnecessary expense.

The same data that Federal contract evaluators must painstakingly acquire from each state already resides in a Federal database, the National Directory of New Hires, which Congress created to aid in the support of the administration of the Child Support Enforcement System.

However, due to restrictions currently placed on access to this database, many federally supported researchers and evaluators are unable to access employment and earnings data from this database.

Instead, they are forced to get the very same data directly from the states at great cost to the Federal Government, and at considerable burden in duplicative reporting for the states.

If the New Hire's database were made available to evaluators with appropriate privacy safeguards, it would enable Congress and the agencies to assess the impact that social programs have on jobs and earnings at much lower cost and less burden to the Federal Government and the states.

The proposed amendment to Part D of Title 4 of the Social Security Act would advance the objective of making this database available for a broader range of research purposes.

But, there are three areas where the amendment could be strengthened. First, there may still be some ambiguity about whether a Federal agency can provide individual level data with personal identifiers to a contract or grant funded evaluator, and thus, the procedures put in place could result in Federal agents creating data sharing systems that are more complex and more costly than necessary.

However, I want to hasten to add that these systems would still be superior to the current situation which has contractors going to individual states to recreate over and over again a dataset that already exists at the Federal level.

My suggestion is that the bill clearly authorize the release of personally identifiable employment and earnings data directly to entities conducting Federal program evaluations, providing that all of the necessary procedures are in place to protect an individual's privacy and the confidentiality of the data.

Second, the proposed amendment appears to require that a separate agreement be concluded between OCSE and the Federal agency requesting the data for each and every study.

Here, the amendment might allow for more inclusive blanket data agreements between agencies, avoiding the need to negotiate separate interagency agreements for every study.

Third, the bill should be careful to enumerate all the relevant Federal agencies. For example, the Department of Defense and the Corporation for National Service, both of which fund research and evaluation studies, are missing from the current draft.

Lastly, I want to briefly mention three potential concerns regarding the amendment.

First, protecting the data's confidentiality. I want to stress that research contractors acting as the Federal Government's agent obtain the same earnings and employment information now from states. In doing so, they assume responsibility for protecting the privacy of the data, and the confidentiality of the individuals involved, using secure servers, encryption, and other best practices as required by each individual state, and the standards of each state vary greatly.

The proposed amendment would standardize and thus strengthen those requirements and protections, and it would add felony level penalties for a willful breach of privacy laws. You would essentially be strengthening the privacy protections.

Cost is another major issue. Federal contracts and grants include funding to obtain the data from states now. These same contracts should instead include funding to cover the marginal cost of obtaining the data from the federal agency that administers the NDNH database.

Those costs would certainly be less expensive than the costs currently incurred.

Finally, it is not precedent setting. The Federal Government provides a range of confidential sensitive data to research contractors and grantees acting as Federal agents now.

In conclusion, this relatively simple fix to existing law governing the New Hire's database, giving researchers evaluating Federal programs access to personally identifiable employment and earnings' information would eliminate unnecessary duplicative data collection efforts, and reduce reporting burdens on state governments.

It would also save Federal and state taxpayers money, and improve the quality and the efficiency of federally supported evaluation research, all while strengthening the protections governing the confidentiality of the data, and further protecting the privacy of individuals.

Thank you very much.

[The prepared information of Mr. Berlin follows:]

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Testimony of Gordon L. Berlin, President, MDRC, Before the Human Resources Subcommittee of the House Ways and Means Committee

March 20, 2012

Good afternoon. My name is Gordon Berlin, and I am the President of MDRC, a nonprofit, nonpartisan education and social policy research organization that is dedicated to learning what works to improve policies and programs that affect the poor. Founded in 1974, MDRC evaluates existing programs and tries out new solutions to some of the nation's most pressing social problems, using rigorous random assignment research designs or near equivalents to assess their impact. Many of our research projects are funded through contracts with federal agencies.

I am pleased to be here today to speak with you about making a simple change to the law governing the National Directory of New Hires (NDNH) database, maintained by the federal Office of Child Support Enforcement (OCSE), that will remove a barrier to accurate, cost-effective assessment of the employment effects of federally supported social policy programs — a barrier that results in unnecessary duplicative costs for the federal government and in excess reporting burdens for the states. This is an issue of some urgency in a time of severe budget constraints and fiscal austerity. Congress must have credible, nonpartisan information to understand whether federally supported programs actually help people find work and increase their earnings. The information is critical for Congressional determinations regarding whether discretionary social programs merit the continued investment of taxpayer money.

Research firms that are funded by federal agencies to evaluate programs often rely on data collected by states from employers on employment and earnings, data that the states already report to the federal government for certain child support enforcement and other purposes. These data are housed in accessible form at the federal level within the National Directory of New Hires (NDNH) database. However, research contractors are generally unable to access this essential database for assessing whether federally supported programs actually work. Instead, they are forced to get the *very same data* directly from the states, at great cost to the federal government and at considerable burden in duplicative reporting for the states. If the NDNH database were made available to evaluators (with appropriate privacy safeguards), it would enable Congress and the federal agencies to assess the impact that social programs have on jobs and earnings at much less cost and burden to the federal government and the states.

During this testimony, I will describe the problem faced by evaluators and will suggest a cost-effective and safe solution for making the data that is housed within the NDNH available to researchers working on federally funded program evaluations.

BACKGROUND AND STATEMENT OF THE PROBLEM

Each year, governmental agencies, often at the direction of Congress, enter into grants and contracts with research firms, in order to determine the effectiveness of government-funded programs. By doing so, government signals its interest in determining whether its investments in social policy programs are achieving the returns that Congress anticipates when it appropriates funds to create or support the program.

Typically, a governmental agency enters into a contract with an independent, nonpartisan firm, such as MDRC, to conduct the evaluation. Contracting evaluations is one way an agency ensures that studies are conducted in an independent and nonpartisan manner.

Governmental contracts for this work typically require the research organization to gather existing data to measure the outcomes of those who are receiving the services of the program and those who have similar characteristics but are not participating in the program. In most evaluations, the research firm obtains data after securing the legally effective informed consent of the program participants. The prospective subjects are informed regarding the degree of confidentiality that will be applied to all the data that is collected from and about them.

For all federal studies, research firms assume the responsibility for keeping the data confidential and secure – including housing individually identifiable data on secure servers with password-protected access controls, using encryption, and stripping data of identifiers after initial processing.

Once the evaluating organization has collected data on the outcomes for participants and non-participants, the evaluator analyzes the data, estimates the impact of the program, and reports the findings. Importantly, the data is always reported in a "grouped" format; no individual-level data is released. This information is vital for decisions about continued government investment in discretionary programs.

One of the best sources of data for determining program effectiveness is earnings records, particularly when employment and earnings are outcomes of interest. Earnings records derive from the information that employers report each quarter to state unemployment insurance agencies, including earnings paid to every employee during the quarter, data regarding new hires, and information about unemployment compensation.

In many evaluations, the earnings data is matched with other data sources, including welfare, food stamps, and childcare subsidy receipt; subsidized housing records; educational and criminal records; birth, marriage, and divorce records; and survey data on family income, family formation, and child well-being. This matching across data sources enables a research firm, such as MDRC, to analyze the effectiveness of programs and policies intended to increase employment and earnings, as well as to determine the effects that a program has on a range of other important social outcomes, such as the relationship between employment and welfare receipt or criminal behavior or the relationship among earnings, family income, and children's education and behavior. Many of these analyses cover extended periods of time, thereby enabling the measurement of the long-term effects of programs and policies on a range of social outcomes.

Information regarding individual workers' quarterly earnings is maintained in state labor or employment security agencies for the unemployment insurance program. Currently, an evaluator must obtain this data from each state agency where it is housed. Because evaluations of governmental programs take place in multiple jurisdictions, the evaluator must spend considerable resources to ascertain each state's requirements for data acquisition and then apply for the data. State statutes and administrative procedures govern access, and these procedures differ among the states. The significant costs of these data acquisition efforts are passed on to the federal agency and ultimately to taxpayers. And not all evaluators can successfully overcome the hurdles imposed by state agencies for access to the data — thereby limiting what policymakers know about program performance.

The costs for the states to make the data available are also significant. While states typically charge for transmitting the data to the evaluation firm, costs associated with the negotiation for the data in the first place are likely not covered and thus are also passed on to state taxpayers.

Imagine an evaluation of a federal program being conducted in 10 states. The costs associated with obtaining employment and earnings data would include researcher staff time to determine, negotiate, and comply with administrative procedures (and pay administrative fees) related to acquiring the data from 10 separate state agencies and then to do the technical work of checking, processing, and standardizing data from different state systems. And that doesn't take into account the costs of the additional burdens placed on the states. In addition, for some studies, states can only transmit data to the federal department funding the evaluation, and the department must then arrange for evaluators to obtain the data — another source of costs.

The extra effort and costs associated with seeking earnings data from the states for program evaluations are not necessary. The same data that is maintained by the states is held in the National Directory of New Hires (NDNH) database, which is lodged within the Office of Child Support Enforcement (OCSE) of the U.S. Department of Health and Human Services (DHHS). Indeed, the state data that is sent to OCSE is combined with employment data from other states, as well as from federal employment sources, thereby creating a rich trove of data regarding individual employment and earnings.

This dataset, while available for the enforcement of child support, is only accessible for use by researchers without personally identifying information. Currently, Section 453 of the Social Security Act, which governs the NDNH database, permits the DHHS Secretary to provide access to the data for research purposes, in the words of the statute, "found by the Secretary to be likely to contribute to achieving the purposes of the (statute)"— this restriction requires that access be allowed only for research that serves purposes of the child support and Temporary Assistance for Needy Families (TANF) programs. While the federal Office of Child Support Enforcement (OCSE) will conduct matches between the NDNH and other data sets on behalf of researchers with studies related to the TANF or child support programs, by law, it may not release identifiers to the researchers. Without personal identifiers, researchers cannot match employment and earnings records efficiently with other information they have already collected from study participants.

Thus, the same data that federal contract evaluators must acquire from the state employment agencies, at great effort and expense, already reside in a federal database that is currently accessible only to federal and state agencies.

The information in the database can be made available to evaluators if Congress makes a small change in the legislation governing NDNH, permitting research firms conducting studies on behalf of federal agencies to receive identifiable data subject to security protections. Such a change, which I describe next, would improve the efficiency and value of program evaluation, thereby enabling government to make more informed decisions about its investments in social programs.

A SOLUTION

A simple amendment to section 453 of the Social Security Act could authorize the release of individually identifiable employment and earnings data for evaluations undertaken to assess the effectiveness of federal programs. Such an amendment would enhance the effectiveness of social policy evaluation because it would ensure the availability of data needed for outcome measurement. It would decrease costs now incurred by both federal and state governmental agencies, and it would sustain the confidentiality and security safeguards already applicable to individually identifiable data housed within the database.

Data housed in the NDNH database are currently made available to state and federal agencies for authorized purposes, including administering programs and verifying employment and income. These purposes are in addition to the principal purpose for which the NDNH was created, namely to

assist state child support agencies in locating parents and enforcing child support orders. Access to the data for research purposes is permitted for some purposes — but *without* personal identifiers.

Here is what an amendment to the law might allow: it could permit the Secretary to provide research firms with access to personally identifiable information for evaluations undertaken to assess the effectiveness of any federal program in achieving labor market outcomes; it could authorize federal agencies managing research contracts to oversee the access; it could ensure that the costs of providing the data are covered by the research firms' contracts; and it could make the federal agencies and the research firms under contract to them responsible for ensuring data privacy and security once the data are transferred.

What would this change accomplish? It would reduce significantly the cost of obtaining access to employment and earnings information, even with the imposition of fees to cover the costs of releasing NDNH data. Since the NDNH database already exists, the marginal cost of providing data to additional users would undoubtedly be substantially less than paying for contractors to acquire the very same data from the states individually. With the cost reduced, agencies could more efficiently evaluate how effectively their programs are helping recipients improve their employment outcomes.

Beyond the cost savings, access to the NDNH database would give researchers a central source of data, one that would be particularly helpful for multistate evaluations, evaluations taking place in cities with high rates of cross-state employment (the DC metro area, for example), and studies targeting populations with high mobility rates, especially for longitudinal studies over many years. The NDNH would also provide more accurate information from employers operating in multiples states, who have the choice of reporting employment in the state where each employee works *or* reporting on all employees to one state employment security agency. NDNH data also include employment records from federal agencies and the military, whereas state systems do not.

It is important to emphasize that the change I'm recommending would not compromise the security of personally identifiable data, nor weaken privacy protections. We and our colleagues at other research organizations, who already get access to these data (through costly and cumbersome state-by-state processes), take privacy, confidentiality, and data security very seriously, and we maintain the strictest security protocols to protect the data we collect and analyze. Federal contracts will continue to require strict adherence to data security protocols. Indeed, we have been accessing, using, and successfully protecting the very same employment and earnings data for more than 30 years, data obtained from the states on behalf of the federal government, with the contractor acting as government agent.

CONCLUSION

In sum, a relatively simple fix to existing law governing the NDNH database — giving researchers evaluating federal programs access to personally identifiable employment and earnings information — would eliminate unnecessary duplicative data collection efforts, reduce reporting burdens on state governments, save federal and state taxpayers money, and improve the quality and efficiency of federally supported evaluation research, all while continuing to protect the privacy of individuals.

Thank you for the opportunity to testify today.

Chairman DAVIS. Thank you very much, Mr. Berlin. We are going to move to questions now.

I have a more general question for all of the witnesses. Each of you has had an opportunity to review a draft of the proposed legis-

lation, of the proposals we have been discussing so far today, and many of you have alluded to it in your testimony.

I was wondering if you have any additional comments about the draft legislation, specifically anything that you believe should be changed or improved upon as we move forward.

I would open it up for any of the witnesses to share.

Mr. Burlingame.

Mr. BURLINGAME. Mr. Chairman, the one thing I would point out, in talking to some of my colleagues in states around the country, I was surprised to learn that in many instances today, judges and individuals supervising criminal defendants, probation officers, parole officers, do not have access today to child support order information or arrearage information on the population of people they supervise.

The privacy considerations in the current regulations and law prevent those individuals from having access to information about support orders and an individual's compliance.

It seems to me that might be something that could be added that would allow individuals supervising the criminal population in the country to be able to check and make sure their charges are staying compliant with the important issue of child support enforcement.

Chairman DAVIS. Before we move on, in fact, I will share personally that is one of our goals. Mr. Lewis and I among a few others introduced legislation called the "Standard Data Act," and we got that enacted into law, in the Child Welfare, Promoting Safe and Healthy Families Act re-authorization last year. It was also in the Conference Report on payroll tax affecting unemployment and TANF.

In my mind, particularly from a front line provision standpoint, having access to that information is very important. A lot of the populations that we deal with, where a front line social worker or a caregiver at a non-government organization could encounter someone, it would be nice to know if there was a deadbeat dad across the river in another jurisdiction, to be able to find that.

I have heard exactly the same sentiment almost universally from folks: the more integrated we can be.

I do not believe that would be a breach of privacy since that parole officer can see a lot of other things. It might be less comfortable in public discussion than the child support payment issue.

Ms. Stephen.

Ms. STEPHEN. Yes. I would like to add to that thought. When I heard this concept earlier today from Mr. Burlingame, I was intrigued because we are in the midst of discussions with our courts in Michigan, and specifically with the establishment of a judicial data warehouse, and are interested in access to certain information that is not part of the public record.

Our child support program is a court based system, but arrearage amounts do not go in the public record.

That type of information, making that available to judges when they are sentencing, so the judge actually has a full picture of this individual's life and responsibilities, probably would be very useful.

It is unlikely to be possible under today's rules and regulations.

I appreciate the fact this is being given consideration.

Chairman DAVIS. Hopefully, we will be able to do something along those lines that would ease the process where it could simply be garnishment of pay. It may take a while to get to that point.

It took us seven years to get to the first provision that Mr. Lewis and I saw go into law, and Mr. Doggett and our other colleagues.

Did you want to say something, Mr. Berlin?

Mr. BERLIN. I just would restate what I said earlier: getting researchers access to individual level data with personal identifiers and with the appropriate protections; and secondly, encouraging blanket agreements between agencies so we do not spend all this time negotiating over the same issue every single time there is another study funded.

Chairman DAVIS. Just to share a personal viewpoint, we often get into these discussions in the Congress when in fact many of our colleagues who argue about this issue go out and use their credit card or one of those loyalty fobs at a store, where there are reams and reams of data being used to forecast management to collection activities, and all the privacy is encrypted and quite reliable.

I think we could easily achieve a high standard because we are dealing with so much smaller of a population and much more limited data fields in the long run.

Just another general question. What would we lose, and more specifically, families in need of child support lose if we do not introduce and pass legislation dealing with this issue?

Why do you feel it should be done now?

Ms. Farley.

Ms. FARLEY. We currently work in a patchwork situation working with individual bilateral treaties. Requirements vary from country to country.

I think what families will lose and continue to lose is the support. Either they will not get the support at all, as Ms. Stephen mentioned, or there is going to be a delay in receiving the support.

We do have the uniform law Commission's recommendation for the 2008 amendments. A lot of uniform laws are presented to the states, and what sometimes happens when states are considering that uniform language is that states will put their own personal touches on it, so it does not end up being uniform in the long run.

I think it is important for Congress to require that every state adopt the uniform law verbatim.

That way, we will be able to comply with the terms of the Convention.

I would also say the need for Congress to act now is that other countries, including the European community, are considering and moving toward ratification, and some of those countries are countries where we do not currently have access to their systems.

By ratifying the Convention, becoming a party to the Convention, our citizens would have access to services in countries where they currently do not have access.

Chairman DAVIS. Thank you very much. With that, I would like to recognize Mr. Lewis from Georgia for five minutes.

Mr. LEWIS. Thank you very much, Mr. Chairman. I want to join you in thanking the witnesses for taking their time to be here today in support of this legislation.

I just want to ask a question, and anyone can respond. I have a letter from a mother from Georgia who wrote to the Federal Office of Child Support Enforcement that said "I recently went through a divorce, and soon after, my ex-husband fled the country to avoid child support payments."

She went on to say "I heard he is in Argentina. I currently live in Georgia with my two children. Is there anything I can do?"

I want to ask you, how would the United States' participation in the Hague Treaty help this mother and the other parents like her, to assist with enforcing an order to non-custodian parents who flee the country to avoid his or her child support?

Would you care to respond?

Ms. STEPHEN. I think you have described exactly the kinds of situations that we face with unfortunately some frequency in Michigan.

At this point in time, we can contact the authorities in Argentina. We can try to make some inroads, but establishing child support is a multi-step process.

First, you have to know where that parent is. Then you have to give adequate notice to the parent, establish the obligation, and set up a process to collect it.

All of that takes structure that we do not have access to today, even if it is a bilateral agreement country, and I am not sure. I do not have that right in my notes.

The Hague Convention and the enabling legislation would actually put in place some standardization of processes that would allow us to accomplish all of those steps, if both Argentina and the United States were members of the Treaty Convention.

That is really exactly what we are talking about. That is the kind of problem we need to solve for families.

Mr. LEWIS. Anyone else care to respond?

[No response.]

Mr. LEWIS. In your opinion, how important is it that Congress quickly pass this piece of legislation?

Ms. STEPHEN. I have been in this program for most of my career, and I think this is a very significant step forward for families whose cases have been closed, flat out closed, nobody is trying to do anything any more because we have run into a dead end, because they have an international component.

Those children deserve the support services that we could provide if we can start this ball rolling.

The phrase that comes to mind is "If we build it, they will come." I am convinced there are many cases out there that are outside the system now because we have been unable to be helpful, and we will be able to move some of those ahead.

I have a case with a seven year old. The father lives in Australia. We have been unable to get any locate, and that child has gone without child support for seven years.

Those are the kind of cases that we need to be moving, and we have to start somewhere, and this is really the place to start.

Thank you.

Mr. LEWIS. Thank you. Yes, sir?

Mr. BURLINGAME. Mr. Lewis, the only thing I would add is on the data standards' front, systems continue to be built and purchased, both in the 4–D area and in the court area.

They are not waiting for these standards to be adopted or developed, so every system that gets built or purchased without standards as a guidance, has the potential to have to be retrofitted or rebuilt or refitted at some point in the future, once these standards are established.

The sooner there could be a mandate for the establishment of standards in this area along with any other area in the child welfare area, I think the better.

Mr. LEWIS. Ms. Farley.

Ms. FARLEY. I might also add that in moving toward ratification, Congress approving and the implementing of legislation is a step in that process.

Once you have passed the legislation, states will have two years in which to implement or to pass legislation.

Once you act, we are still at least two years away from ratification. The sooner you act, the sooner we can move towards ratification and actually begin to benefit from the Convention.

Mr. LEWIS. Thank you. Mr. Chairman, I yield back.

Chairman DAVIS. I thank the gentleman. The Chair now recognizes the gentleman from Minnesota, Mr. Paulsen, for five minutes.

Mr. PAULSEN. Thank you, Mr. Chairman, and thank you all for being here today.

In today's world, when we talk about moving information between systems and making it more available out there, we have the issue of identity theft, of course, and the protection of personal identity information, which is sometimes called "PII."

That is a primary concern whenever anyone talks about expanding access to data.

I am just wondering, Mr. Berlin, you touched on this a little bit right at the end of your testimony, I think. Can you please walk us through exactly how the privacy protections provided by the draft legislation language would work if researchers were given access to data in the National Directory of New Hire's?

What other types of Federal data do researchers already have access to, what privacy protections surround that data? Have they been effective? How do those protections compare to those, as an example?

Is there any reason to believe overall that these private protections would be any less effective than those that are in place right now involving other areas of Federal law?

Mr. BERLIN. I can describe briefly the steps that we take. We work with a lot of other firms that also do this kind of work and have typically found that they follow very similar procedures.

We have a chief data security officer and a data exchange manager. We begin by meeting with and working with the agency and identifying the most reliable, safest way to actually transfer the data.

That data transmission method usually follows the National Institute for Standards and Technology's strict standards for data exchange. It is called "For Data in Transit."

It is a standard protocol, and NIST has established a set of very strict rules around these transfers. I think you want to make sure that those kinds of rules are what the agencies are relying on and using.

Those data teams then work with and store that personally identifiable data on a secure, centrally located server. It can only be accessed by a limited number of people, with the need to know.

Once we have the data, the very first thing it does is strip the data of all personal identifiers, and create essentially a random number for every individual in the dataset.

That is the dataset we work with. The dataset that has personally identifiable information on it is set aside on this secure server that is controlled by a data security officer.

There is almost no reason for us to be using the dataset with personal identifiers on a regular basis.

At the end of the study, we then use the National Institute for Standards and Technology's standards for ensuring that the data is destroyed in an effective way, and that it cannot be recaptured elsewhere.

As I said, most firms use those same kinds of procedures. At our organization, and to the extent I know of other organizations, there has never been a breach of any of that data.

We and some other organizations we work with actually get sensitive Social Security Administration data, which if you think about it comparatively, in the NDNH case, we are only talking here about knowing quarterly earnings, essentially.

The Social Security data on disability and other things are much more sensitive, and we do get that data now, and we meet a very high standard for that data.

Federal agencies generally have compliance officers who visit your organization unannounced and confirm that you are in fact following all these procedures.

Mr. PAULSEN. The data you would use as a researcher under the draft legislation would be just as protective of privacy concerns as it is for what other Federal agencies use right now?

Mr. BERLIN. Exactly. The truth is the thing that everyone seems to have forgotten here is we already have this data. We are just getting it from the states. We follow these procedures now.

For 30 years, we have been doing this. Again, at unnecessary cost because the same data is already sitting at the Federal level.

Mr. PAULSEN. Ms. Farley, can I just follow up and ask, I think you may have mentioned privacy protections within the Hague Convention, but can you please tell us a little bit more about those?

Ms. FARLEY. Yes. The drafters of the Convention were very aware of the personal information that would be gathered and transmitted.

There are several provisions within the Convention that deal with this issue. One, protection of personal data, any personal data that is gathered and transmitted can only be used—it is restricted to be used only for the purpose for which it is being gathered and transmitted.

Someone getting information for collection of child support could not hand that off to some other entity to use it for another purpose.

There is also a provision related to confidentiality, in that the participating countries must protect the information they gather in accordance with their national law.

The third one has to do with non-disclosure. It is a sensitivity to domestic violence. Authorities are prohibited from disclosing or confirming information that would jeopardize the health, safety, and liberty of the persons.

The other thing I would mention is as the Treaty was developed, tools were also developed to help implement it, including a set of forms, recommended forms, and all of the recommended forms clearly identify what information is personal and should not be transmitted, and that these countries should be very careful in handling.

Chairman DAVIS. Thank you very much. The gentleman's time has expired. The Chair now recognizes the gentleman from North Dakota, Mr. Berg, for five minutes.

Mr. BERG. Thank you, Mr. Chairman.

I just have a couple of questions. First of all, North Dakota is one of the ten states that have enacted legislation with the Hague Convention.

I really have two questions. One is what are the consequences of us not moving forward at this point?

Ms. Farley, if you could address that, and Ms. Stephen also. If we do nothing, what are the negative consequences for doing nothing right now?

Ms. FARLEY. The consequences are we continue the path that we have, in this patchwork of a system where we have to do bilateral agreements with individual countries, the requirements of those agreements may vary as far as what kind of documents are required and services that can be performed, and for those countries where we do not have a bilateral agreement, we will continue to have difficulties.

It is just a continuation of the difficulties we are experiencing right now.

Mr. BERG. Ms. Stephen.

Ms. STEPHEN. Yes, I would certainly second what Kay Farley has said. As I said earlier, the many cases that have just been out and out closed because we lack the ability to process the child support for that family.

Those cases are all across the globe. Our nearest neighbor probably would be cases from Mexico, where we have a number of Mexican individuals who work and live in Michigan, and we are unable to accomplish anything in terms of child support with the country of Mexico.

Those families will grow up—those children will grow up with the support of only one parent, and that is a tremendous struggle in a time when both parents should be supporting their kids.

Mr. BERG. Michigan is a problem? I am just kidding.

My second question, last question, relates to there are 40 states who have not signed this or enacted this. What is the problem? What is the barrier for them acting on this?

Ms. FARLEY. I think the barrier is they are waiting for Congress to act. They want to take clues from you as to whether you are going to require verbatim implementation.

I think they are waiting for you. It is not that they are not supportive. They just want to take direction from you all before they move forward with their state legislation.

Mr. BERG. Okay.

Ms. STEPHEN. I am not aware of any opposition to this. I am not aware of any concern among the child support directors across the country, and we are a fairly tight group.

I do not believe that anybody is waiting because they do not believe this is the right thing to do. I think they are waiting to know that this is the direction that Congress wants us to go.

Mr. BERG. We are all going to move in this direction. Thank you. I yield back, Mr. Chairman.

Chairman DAVIS. Thank you very much. I want to thank each of the witnesses who have come here today. I also thank you again for your flexibility at the beginning of the hearing where we had to take that brief intermission.

We would like your continued input as we move forward on the draft legislation to introduce and hopefully pass that in this Congress. I would value that very much.

If members have additional questions, they will submit them to you directly in writing, and what we would ask you to do is share those answers not only with the members but also with the Committee so we can get them in the record for all to see.

With that, I thank you again for coming, I thank the members for participating, and the Committee stands adjourned.

[Whereupon, at 3:02 p.m., the Subcommittee was adjourned.]

[Submissions For The Record follow:]

Eastern Regional Interstate Child Support Association, statement

Written Testimony
by
Robert Velcoff, President
Eastern Regional Interstate Child Support Association
on
No-Cost Improvements to Child Support Enforcement
Submitted to the
HOUSE WAYS AND MEANS COMMITTEE
HUMAN RESOURCES SUBCOMMITTEE
Subcommittee Hearing
Tuesday, March 20, 2012
2:00 P.M.
1100 Longworth House Office Building
Washington, DC

Dear Chairman Davis, Ranking Member Doggett, and members subcommittee,

I am writing on behalf of the Eastern Regional Interstate Child Support Association (ERICSA). ERICSA is a leading advocate for effective interstate child support case processing and actively participates in efforts to improve the laws, policies, and practices that govern interstate child support.

ERICSA is a non-profit organization dedicated for over 49 years to promoting the well-being of children and families, focusing particularly on intergovernmental cases. We represent judges and other decision-makers, public and private attorneys, and child support professionals from throughout the country. ERICSA historically has drawn its membership from persons working for or doing business with tribes and states and their local jurisdictions that border on, or are east of, the Mississippi River. ERICSA holds an annual training conference and provides policy positions on key issues affecting child support. Throughout this last half-century, we have engaged with federal and state legislators in the creation, evolution and expansion of a program that provides critical financial support to over 16 million families, many of whom have moved from welfare to self-sufficiency due in significant part to the child and medical support established and enforced through the IV-D program. And we have done so efficiently.

The "International Child Support Recovery Improvement Act of 2012" introduced on March 28, 2012 (H.R. 4282) highlights the continued bi-partisan support in Congress and the nation for the child support program. Even in these difficult economic times, the child support program has elicited strong support because of its cost effectiveness and its positive influence on societal self expectations that every child deserves support and acknowledgement from parents. ERICSA has a long-standing commitment to the U.S. ratification and implementation of the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance. We are therefore very supportive of the Act's "Amendments to Ensure Access to Child Support Services for International Child Support Cases" (section 2).

The Uniform Interstate Family Support Act (UIFSA) is the appropriate mechanism for implementing the Hague Convention in the United States. The positive change to interstate and international child support enforcement resulting from UIFSA cannot be overstated. UIFSA has instilled fairness and harmonized legal proceedings in intergovernmental child support cases, to the benefit of all parties, and most importantly to the children for whom child support was so difficult to establish and enforce under predecessor state laws.

ERICSA has been an active partner with the Uniform Law Commission (ULC) Drafting Committee. One or more ERICSA representatives served as official observers, participating fully in the creation of UIFSA in 1992, subsequent amendments in 1996 and 2001, and most recently in the development of the international provisions in 2008. Built on the improvements made in 2001, the 2008 amendments implement the Hague Maintenance Convention in the United States. We believe there is universal agreement among child support professionals that UIFSA 2008 should be the required law in every state. ERICSA has consistently urged Congress to update section 466(f) of the Social Security Act to require that states enact the most recent version of UIFSA. Currently there is no uniformity among the states. Some states have the mandated 1996 version; others enacted the 2001 amendments using a request for a state plan waiver. Appended is a list of current state adoptions.

We strongly support conforming amendments to section 1738B of title 28, United States Code, the Federal Full Faith and Credit for Child Support Orders Act (FFCCSOA). In addition to the amendments noted in H.R. 4282, we encourage Congress to harmonize further UIFSA and FFCCSOA and clarify that the two acts are consistent.

Thank you for the opportunity to offer these written comments. ERICSA stands ready to provide further assistance, as needed.

Sincerely,

/s/

Robert Velcoff
ERICSA President
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POLICY STATEMENT

The Eastern Regional Interstate Child Support Association (ERICSA) is a not-for-profit organization that recognizes that the family is the basic unit of our society. A primary purpose of ERICSA, as specified in Article II, Section 1, of its bylaws, is to recommend support for or changes to legislation and regulations concerned with the welfare of children and families, especially in the area of paternity and child support. This document sets forth the principles that guide ERICSA in its evaluation of such legislation and regulations.

The Best Interests of the Child. Legislative and regulatory proposals should be informed by an assessment of the best interests of children. Recognizing that this imperative must sometimes be balanced against the restrictions of funding, both public and private, this principle is paramount as ERICSA evaluates legislation and regulations concerned with the health and welfare of children and families.

Balancing the Need for Uniformity with Recognition of the Differences among States, Territories and Tribes. Legislative and regulatory proposals should be assessed with regard for the diverse legal traditions and governmental infrastructures among states, territories and tribes. This diversity must be balanced against the necessity for a degree of uniformity in laws and procedures that constitute the foundation of the child support program, serving all children and families as they move or relocate across state lines.

Family is Fundamental. Family remains society's primary institution for supporting children's growth and development. Legislative and regulatory proposals should be considered in light of this principle, taking into consideration factors detrimental to the best interests of the child, including the lack of financial support and health care, and the scourge of family violence and child abuse.

Parental Responsibility. Parents bear primary responsibility for meeting the physical, emotional and intellectual needs of their children. Legislative and regulatory proposals should be evaluated with this principle in mind, recognizing that parents may lack the resources – whether material, monetary or personal – to fulfill this responsibility.

Prevention is Key. Preventing problems before they become crises is the most effective – and cost-effective – way to address the needs of troubled families and vulnerable children. Prevention -- and early intervention -- should be a prominent principle that drives legislative and regulatory proposals.

Collaboration is Essential. Community institutions including, but not limited to, schools, employers, faith-based and non-profit community-based organizations, contribute to the creation of an environment that is supportive of children and parents. Government entities at the local, state and national levels – including the executive, legislative and judicial branches – also serve a vital role. ERICSA will evaluate legislative and regulatory proposals with a focus on the need to optimize collaboration among public and private entities to fulfill the intended purpose of such proposals.

Uniform Law Commission
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UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)

UIFSA (2001) The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 mandated that all states enact UIFSA (1996) (42 U.S.C. §666(f)). All states complied. After passage of the UIFSA (2001) amendments, OCSE-AT-02-02 notified states that they could request a state plan exemption should they choose to enact UIFSA (2001). Twenty-two states now have UIFSA (2001); the remaining states continue to have UIFSA (1996).

An electronic version of UIFSA (2001) is not currently on the NCCUSL website. However, an OCSE TEMPO – 2001 Revisions to the Uniform Family Support Act (UIFSA) is found at:

http://www.acf.hhs.gov/programs/cse/pol/IM/2003/im-03-01a.htm

See also, John J. Sampson & Barry Brooks, *Uniform Interstate Family Support Act (2001) With Prefatory Note and Comments (With Still More Unofficial Annotations)*, 36 FAM. L. Q. 329 (2002) (Available on Westlaw and Lexis).

UIFSA (2001) is in effect in 22 states: *Arizona, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Maine, Maryland, Mississippi, Nebraska, Nevada, New Mexico, Oklahoma, Rhode Island, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming*. All have received a state plan exemption from OCSE.

UIFSA (2001) was enacted in *California* years ago but is effective only upon federal waiver or change in federal mandate from 1996 to 2001; a state plan exemption request has not been submitted to OCSE.

UIFSA (2008) The 2008 UIFSA amendments are a limited revision of UIFSA (2001) made by the Uniform Law Commission to comport with the obligations of the United States under the new *Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (Convention). UIFSA 2008 (without comments) is found at:
http://www.law.upenn.edu/bll/archives/ulc/uifsa/2008final.htm

See also, *Uniform Interstate Family Support Act (Last Amended or Revised in 2008) With Prefatory Note and Comment*, 43 FAM. L. Q.75 (Vol.1 Spring 2009)

In DCL-08-41, OCSE provided information for states interested in enacting UIFSA (2008) prior to the change in federal mandate. States may enact UIFSA 2008 verbatim with a provision that the effective date of its enactment will be delayed until the Treaty is ratified and the United States deposits its instrument of ratification. States that choose to follow this process do not need to request an exemption from OCSE.

The 2008 Amendments have been enacted in *Florida , Maine, Missouri, Nevada, New Mexico, North Dakota, Rhode Island, Tennessee, Utah and Wisconsin*; however, they will not come into effect until (at least) the Convention is ratified. To date in 2012, bills to enact the amendments also have been introduced in *Hawaii, Puerto Rico, Minnesota, and Washington.*

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