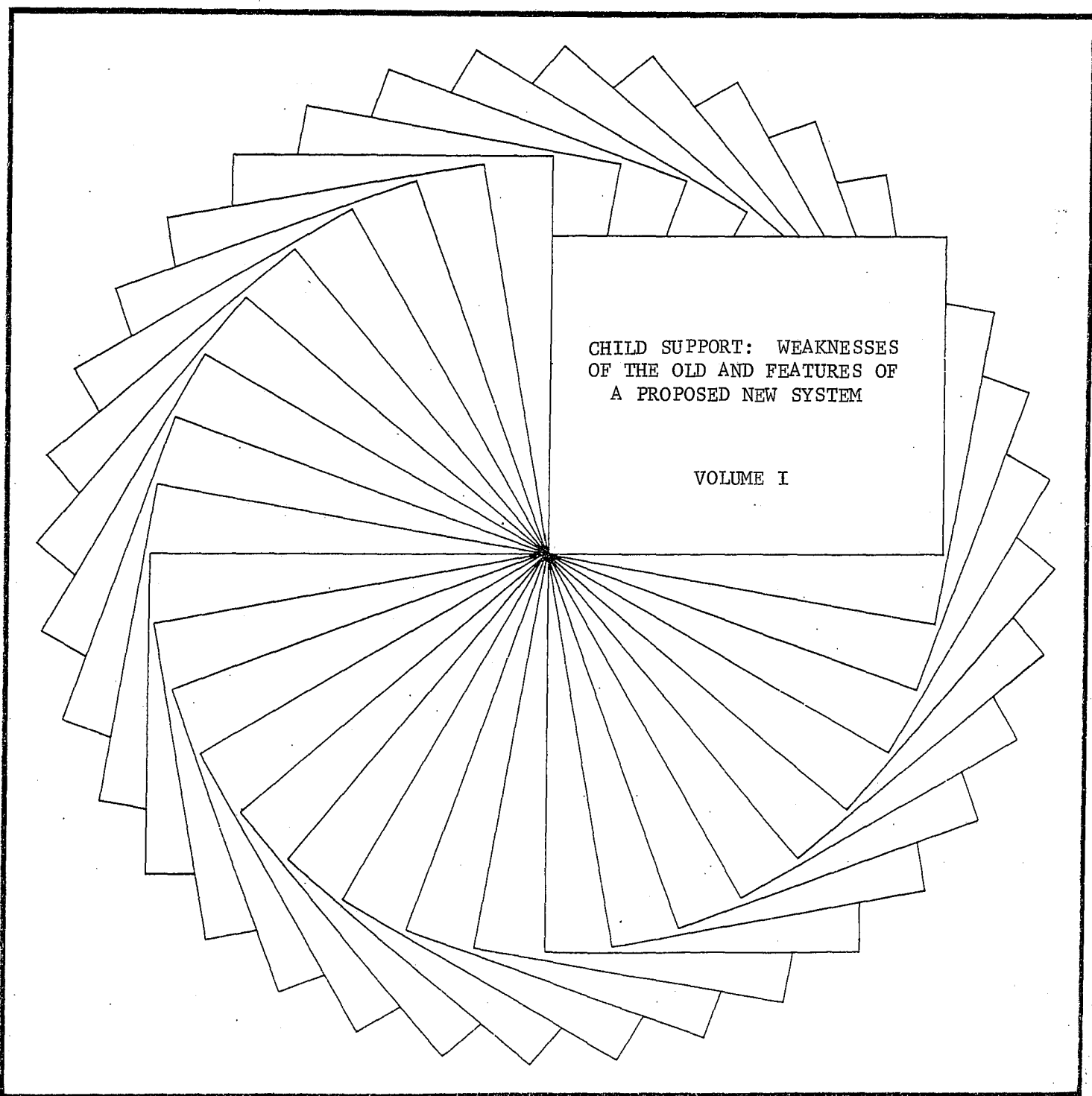




Institute for Research on Poverty



CHILD SUPPORT: WEAKNESSES
OF THE OLD AND FEATURES OF
A PROPOSED NEW SYSTEM

VOLUME I

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EXECUTIVE SUMMARY

Introduction

In the summer of 1980, a research team from the Institute for Research on Poverty under contract with the Wisconsin Department of Health and Social Services engaged in a project to examine the existing Wisconsin child support system and design and evaluate alternatives to it. This report presents the preliminary findings of the research, program design, and evaluation effort.

The report consists of three volumes. Volume I contains the Executive Summary, the main body of the report, and a draft of the law which would enact a new child support program.

Volume II contains a proposal for a demonstration of the child support program in several Wisconsin counties and a set of issues papers on each major program recommendation. Volume III contains research papers prepared as background for the main report plus a set of papers prepared for the spring 1981 child support conference.

Weaknesses of the Current Child Support System

The U.S. Child Support System fosters parental irresponsibility. It is inequitable and therefore exacerbates tensions between former spouses. Finally, it impoverishes children. While Wisconsin is much better than average, the same criticisms apply here--only with less force.

Evidence of parental irresponsibility is contained in national statistics. Only 59% of women potentially eligible to receive support have child support awards. Of those awarded child support, only 49% received the full amount due them, and 28% received nothing. Child support is

collected from only 10% of the absent fathers of AFDC children. In Wisconsin, it is collected from 15%.

The child support system is inequitable because the amount of support an absent parent pays depends not just on ability to pay, but on the varying attitudes of local judges, district attorneys, and welfare officials, the beliefs and attitudes of both parents, the current relationship between the parents, and the skills of their respective lawyers. Nearly every absent parent can find someone earning more who pays less. Nearly every custodial parent knows someone who is receiving more though the child's father earns less. Because of this and the absence of firm determinative legislative guidelines, child support is a major source of continuing tension between many former spouses.

Finally, the widespread failure of the system to ensure that absent parents pay child support impoverishes their children and shifts the burden of financial support to the public sector. Nearly half of all children living in female-headed households are poor and on welfare. Welfare--which was designed to aid those not expected to work--is no longer the best way to provide aid to children with single mothers, because we now expect single mothers to work.

In view of the fact that nearly one of every two children born today will spend some time in a single parent family before reaching age 18, the inadequacy of our child support system constitutes a major social problem.

Goals and Constraints for a New Child Support Program

The principal goals underlying the proposed reform are to establish and collect child support equitably and efficiently, to assure a minimal level of child support to children with a living absent parent, and to

reduce the number of single-parent families on welfare. The major constraints are to avoid (1) increasing costs to general taxpayers; (2) overtaxing absent parents; and (3) harming AFDC beneficiaries.

Recommendations For a New System

Our analysis suggests these goals and constraints would best be obtained by enacting legislation which would create a new system of establishing, collecting, and distributing child support payments. The objective of establishing equitable parental financial responsibility is best served by legislating a simple normative formula for child support. The most effective way of collecting the support from the absent parent would be to assess it as a tax and collect it through a wage withholding system. The best way of guaranteeing a minimum level of support to all children with a living absent parent, and reducing the dependence of such children on welfare, would be to pay benefits to all eligible children, rich and poor alike. In short, under the new child support program all absent parents are required to share their income with their children. All children with absent parents are entitled to the child support paid by their absent parent or a publicly guaranteed minimum, whichever is larger. In cases where the absent parent cannot pay child support equal to the minimum, a supplement should be provided out of general revenues that otherwise would be spent on welfare. Finally, in order to avoid public subsidies to families who are not in need, and to reduce budget costs, the custodial parent would be subject to a special surtax in cases where the absent parent pays less than the minimum.

We make no recommendations on the level of either tax rates on absent parents or minimum child support benefits. Instead we report the effects

on public savings or costs of adopting alternative tax rates and minimum benefit levels. (In a subsequent report we will also show the effects on the economic well-being of children and welfare caseloads.) Ultimately, these fundamental decisions about tax rate and benefit levels will emerge from the political process.

Rationale for Key Recommendations

There are three major arguments for establishing child support obligations by legislation rather than judicial discretion. First, because of the large financial obligation already borne by the state, the apportionment of support for poor children among the custodial parent, the absent parent, and the public is more appropriately a legislative function. Second, the use of courts is too costly to society and the families affected, both in direct fiscal impact and judicial time. Third, a legislated formula would reduce inequity.

The principal argument for using general revenues to supplement inadequate child support payments from absent parents is that doing so will reduce welfare costs and caseloads.

The argument for universal, automatic income assignment for child support obligations is that effective and efficient collection of child support is essential. However, it is possible that improving the response to delinquent payments in the current collection system through the use of a fully automated and computerized system may achieve significant efficiency gains without universal withholding. Consequently, we recommend that both collection approaches be tried on an experimental basis in several Wisconsin counties.

Savings of a New System

Crude cost estimates suggest that a new child support program could result in modest to substantial savings. The estimates are crude for several reasons. First, the data used are for 1975. Substantial changes in the eligible population have since occurred. Second, because there are no direct data on the incomes of absent parents, we had to rely on the characteristics of custodial parents to estimate this crucial piece of information. Third, in the absence of any experience with the effectiveness of the new collection system, we could only guess as to how much more efficient the new system would be. Despite these and other shortcomings, we believe the cost estimates give us the right order of magnitude. Table 1 presents estimates for four different proposals, ignoring administrative costs. In all cases, it is assumed that 100% of potential absent-parent tax revenue is collected.

In the first two plans, minimum benefits are equal to \$3500 for the first child and \$1500 for each subsequent child. In the third and fourth plans, minimum benefits are equal to \$2000 for the first child and \$1000 for each subsequent child. Tax rates on the absent parent are 20% for one child, 30% for two children, and 40% for three or more children in plans 1 and 3; and 15% for one child, 25% for two children, and 30% for three or more children in plans 2 and 4. Tax rates on custodial parents, not shown in the table, are one-half those on absent parents. Gross benefits paid out are given in column 1, absent-parent and custodial-parent tax revenues in columns 2 and 3, AFDC savings in column 4, and net savings in column 5. Net savings equal the sum of absent- and custodial-parent tax revenues and AFDC savings minus gross benefits. In column 6 the percentage of absent parents who pay as much or more than the minimum

Table 1

Estimated Benefits and Costs of Alternative Child Support Reform Plans for Fiscal 1980 (\$ millions)

Description of Plan			(1) Benefits	(2) Tax on Absent Parent	(3) Tax on Custodial Parent	(4) AFDC Savings	(5) Net Savings (2)+(3)+(4)-(1)	% Who Pay Minimum	
								(6) Absent Parent	(7) Absent Parent Plus Custodial Parent
Benefit	Tax Rate %								
1st Child	\$3500	20	590	419	83	169	81	40	57
2nd Child	1500	10							
Maximum		40							
1st Child	3500	15	547	340	81	165	39	30	44
2nd Child	1500	10							
Maximum		30							
1st Child	2000	20	461	393	46	146	125	60	77
2nd Child	1000	10							
Maximum		40							
1st Child	2000	15	397	314	48	122	87	51	68
2nd Child	1000	10							
Maximum		30							

is presented. Column 7 presents the percentage of cases where the absent plus custodial parent tax equals the child support minimum.

Savings range from a low of \$39 million to a high of \$125 million. These figures are nontrivial. They amount to one-seventh to two-fifths of current AFDC federal and state expenditures in Wisconsin in 1980.

The estimates of savings are too high because they assume that 100% of absent-parents' liability for child support will be collected. Currently, about 65% of this liability is collected. Our best guess is that under the new system we will collect 80% of potential revenue from absent parents. In this case, net savings for the four plans would equal \$27, \$-8, \$80, and \$48 million.

What Remains to Be Done

The contrast between the dismal reality of the current system and the bright promise of the proposed reform is sufficient to warrant refinement of the cost estimates, limited demonstrations of the reform, and continued work on program design. The savings, or cost estimates, can be improved by making use of newly available data sources which have larger samples and better measures of the income of absent fathers.

While the report makes many recommendations, there are issues which are not addressed. Because bright promises can often turn into dismal reality, the proposed new system should be tried in a small number of counties before it is adopted for the whole state. Ultimately, program design recommendations will have to be reconsidered in response to feedback from the broader community.

WEAKNESSES OF THE CURRENT CHILD SUPPORT SYSTEM

Throughout the Country

One out of every five children in the United States is potentially eligible for child support.¹ That is, they are entitled to financial support from a living parent who is not residing with them. A small proportion of these children--16%--live with their fathers. A larger proportion (24%)² live with their mother and a stepfather. Most of these children--fully 60%--however, live in female-headed households.

Because of increasing rates of divorce, separation, and out-of-wedlock births, the proportion of children in female-headed households increased from 8.5% in 1965 to 12.6% in 1978. Estimates indicate that nearly one of two children born today will spend part of his or her first eighteen years in a single-parent home.³

The economic support of this large and growing number of children who live apart from at least one of their natural parents is problematic. Both natural parents, when living with their children, unavoidably share their income with them. In contrast, when a parent lives apart from his child, it requires a conscious act to share his income with the child. Does the absent parent contribute to the support of his children?

Data published by the Census Bureau indicate that of those women potentially eligible to receive child support only 59% were awarded payments.⁴ Of those awarded child support, only 49% received the full amount due them, and 28% received nothing. In short, the U.S. child support system fosters parental irresponsibility.

The current child support system is highly inequitable. For example, a recent law journal article on child support began by noting that two men, each with \$450 net income per month, paid \$60 and \$120 per month in child support while yet a third man with \$900 net income paid only \$50.⁵ Not surprisingly, the author asks "Why?" Whether and how much a man pays or a woman receives in child support depends not just on the man's ability to pay, but on the attitudes of local judges, district attorneys, and welfare officials, the beliefs and attitudes of both parents, the current relationship between the parents, and the skills of their respective lawyers. Even in those cases settled in court, the factors taken into account depend on the judge, on the jurisdiction, and on any number of incalculable circumstances. In many cases how much a man is expected to pay depends on whether he or his ex-wife has remarried. In many other cases remarriage has no effect on support orders. Whichever is more just or better social policy, this unequal, arbitrary treatment of people in similar circumstances is inequitable.

Child support is now a major source of continuing tension between many former spouses. Because there are no firm guidelines, ex-spouses quarrel over what is a fair amount of child support. The tax structure adds to the friction. A man in a high income tax bracket will prefer paying alimony (which is deductible) to child support (which is not). His former wife will prefer receiving child support (which she does not have to include in her taxable income) to alimony (which she must, and which is likely to cease should she remarry). Ex-husbands often would rather give gifts to their children (to buy their affection) than supply cash (which may benefit their former wives). The adversarial atmosphere of the divorce extends throughout the minority of the children. When ex-husbands fail to pay support, the ex-wives often deny visitation, and

vice versa. Such action is bound to worsen what is usually a bad relationship between the ex-spouses and may weaken the bonds of affection between the absent parent and his children.

Finally, the widespread failure of the system to ensure that absent parents pay child support impoverishes these children and shifts the burden of financial support to the public sector. Nearly half of all children living in female-headed households are poor and on welfare.

Yet welfare is no longer the best way to provide aid to children living in single-parent families. When the Aid to Families with Dependent Children (AFDC) program was enacted in 1935, women were not expected to work. Moreover, we were in the midst of the Great Depression. The program was designed to enable single mothers to stay home to raise their children. In view of that objective, reducing benefits by one dollar for each dollar of earnings--a 100% tax rate on earnings--made sense. Now that half of married women with children work, expectations have changed. A new consensus is emerging. Increasingly single mothers are expected to work. Welfare programs are not good vehicles to aid those expected to work. For in order to confine welfare benefits to the poor, the benefits must be reduced as income increases. This has the effect of discouraging work effort because earnings are virtually confiscated by high benefit reduction rates. In response to the changing expectations, tax rates in AFDC were reduced in 1962 and 1967 to encourage work. But reduced tax rates also had the effect of raising the amount a mother could earn before she lost eligibility for AFDC. Welfare took on the role of providing income supplementation as well as the role of providing a minimum income to those who could not--or were not expected to--work. This dual role has never, throughout the history of welfare dating back to the Elizabethan Poor Law, proved to be stable.

After short episodes, the income supplementation role has been abandoned.⁶ Now the Reagan administration is raising tax rates in the AFDC program. Unfortunately, there is now no program in place other than AFDC to provide income supplementation to single-parent families.

Wisconsin

Wisconsin already has one of the best, if not the best, child support systems in the country. Yet, nearly every criticism of the system in the U.S. as a whole applies to Wisconsin as well--only with less force.

The state ranks sixth and ninth respectively in the nation according to the two criteria used by the federal Office of Child Support to judge collection effectiveness: (1) the ratio of child support collected from absent fathers of children on AFDC to child support administrative costs and (2) the ratio of child support collected from absent fathers of children on AFDC to AFDC expenditures.⁷ An even better measure of how effective a state is in collecting child support from the absent parents of children on AFDC is the ratio of child support collected to the ability of the absent parents to pay child support. By this measure, Wisconsin ranks third in the nation.⁸

Wisconsin law is among the strongest in the nation. It provides that all child support be paid through a government body--the county Clerk of Courts. Wisconsin law also provides that when a court order for child support is entered, that a contingent wage assignment be issued. If payments are over 20 days delinquent, the county Clerk of Courts is empowered to send notice to the delinquent absent parent that in the event that payment is not made or the delinquent cannot show cause in 10 days, a wage assignment will be effected.

The AFDC program in Wisconsin is equally outstanding. Only 5 states pay higher benefits.⁹ Yet few states have a higher percentage of AFDC mothers who work. Wisconsin is the only state in the country to have developed an integrated computer system to deal with AFDC, Medicaid, and Food Stamps.

On the other hand, despite the fact that we do better than most other states, Wisconsin still collects child support from only 15% of AFDC cases with absent fathers (compared to 10% nationally) and recovers only 8% of AFDC expenditures.¹⁰ If ability to pay is measured by 15% of income for one child, 25% for two children and 30% for three or more children, Wisconsin still only collects 14% of what absent fathers of welfare children can afford to pay.¹¹ Even if ability to pay is one-half that above--7.5% for one child, 12.5% for two children, and 15% for three or more children, Wisconsin collects just a bit more than one-quarter of what absent fathers can pay. In short, parental irresponsibility is also fostered in Wisconsin.

Wisconsin law with regard to child support is so general that it gives judges nearly complete discretion. The legislation instructs Wisconsin courts to apply the following criteria in determining the amount of child support: (1) the financial resources of the child; (2) the financial resources of both parents; (3) the standard of living the child would have enjoyed had the marriage not ended in annulment, divorce, or legal separation; (4) the desirability that the custodian remain in the home as a full-time parent; (5) the cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home; (6) the physical and emotional health needs of the child; (7) the child's educa-

tional needs; (8) the tax consequences to each party; (9) such other factors as the court may in each individual case determine to be relevant.

Absent parents in Wisconsin with the same incomes also pay widely varying amounts of support depending upon where they live, who their lawyers are, and so on. Judicial attitudes towards child support in Wisconsin vary from one end of the spectrum to the other. Child support is a major source of continuing tension between former spouses. Finally a very substantial percentage of all children living in female-headed households in Wisconsin are poor and on welfare.

GOALS AND CONSTRAINTS FOR A NEW CHILD SUPPORT SYSTEM

In this section, we first describe the goals and constraints that have shaped our efforts to design a better child support system. Then the basic program design recommendations are enumerated.

A. Goals

1. To establish an equitable system of parental financial responsibility for child support.
2. To collect the resulting obligation effectively.
3. To cushion the economic loss to children of single parents resulting from the absence of a parent.
4. To guarantee a minimal level of economic child support for all children with a living absent parent.
5. To reduce both welfare costs and caseloads and minimize the stigma associated with guaranteeing economic support for children with absent parents.

6. To integrate single-parent families into the mainstream of American economic and social life.
7. To reduce the adverse effects of the current system on the behavior of both absent and custodial parents.

B. Constraints

1. To avoid taxing absent parents for the support of children other than their own.
2. To avoid imposing excessively high tax rates on absent parents.
3. To avoid making existing and potential AFDC beneficiaries worse off.
4. To achieve these changes with little or no increase in the general revenues that now are being spent on the Aid to Families with Dependent Children (AFDC) program.

Recommendations for a New System

Evaluation to date leads us to conclude that these goals and constraints would be best obtained by enacting a new program to collect and distribute child support payments. The objective of equitably establishing parental financial responsibility is best served by legislating a simple normative formula for child support. The most effective way to collect the support obligation of the absent parent is to treat it as a tax and collect it through the withholding system. The best way to guarantee a minimum level of child support for all children with a living absent parent and simultaneously reduce welfare costs, shrink caseloads, and minimize the stigma of welfare is to pay benefits to all children (rich and poor alike) with a living absent parent who is legally liable to pay child support. When the absent parent cannot pay

child support equal to the minimum, a supplement will be provided out of general revenues (that would otherwise be spent on welfare). Finally, it is our judgment that the preferred way to increase the economic well-being of female-headed families on welfare is to offer them an alternative opportunity for a nonwelfare benefit which, when combined with at least part-time work, will be superior to welfare.

The child support program that we envision can be best described in terms of our recommendations about which children are entitled to or eligible for child support payments; which absent and custodial parents are obligated to make child support payments; how much absent and custodial parents are obligated to pay; how much children are entitled to receive; and how the system will be administered.

Which Children Are Entitled to or Eligible for Child Support Payments?

1. All children are eligible who (a) are Wisconsin residents, (b) are under the age of 18 (under 19 if in secondary education), and (c) have at least one living absent parent legally liable for paying child support.
2. The child's eligibility will not depend upon the assets, income, or marital status of the custodial parent or the absent parent.

Which Absent and Custodial Parents Are Obligated to Make Child Support Payments?

1. All parents not living with their children have a legal obligation to share their income with their children.
2. Low income is not a sufficient cause to exempt anyone from the system. No matter how low the income, the state will enforce the responsibility of the absent parent to share part of his income

with the child. Even absent parents in prison will be required to share what little income they earn with their children.

3. The unique circumstances that apply to very wealthy people will be accommodated not by exempting them from the system, but rather by exempting income above \$50,000 from the system.
4. In circumstances wherein the family court judge finds that it is in the best interests of the child, and therefore the absent and custodial parents, to be excluded from the system, all three parties will be excluded from the system. The statutory clause on "the best interests of the child" should be narrowly worded to include such specific examples as cases where there is a property trust settlement for the children which guarantees them at least as much as the tax structure described below.
5. Custodial parents whose children receive a public subsidy will be liable for a child support subsidy tax.

How Much Are Absent and Custodial Parents Obligated to Pay?

1. How much child support absent parents are required to pay will be specified in a simple formula in a state statute. The amount to be paid will depend only upon the income of the absent parent and the number of children.
2. The legislated child support formula for absent parents will apply up to \$50,000 per year in 1982 dollars. That is, the tax base will be gross income up to \$50,000 per year.
3. Each year thereafter the \$50,000 figure will be adjusted by the average real growth in the economy--that is, by the real increase in GNP.

4. Custodial parents will be free to seek supplementary child support orders through the courts on absent-parent income in excess of the tax base.
5. The tax rate will be a proportional rate starting with the first dollar of income.
6. Neither the tax base nor tax rate will be altered in the event of remarriage of either parent or the parenting of additional children by the absent parent.
7. The tax rate for the initial child will be higher than that for subsequent children. The tax rate will approach, but not reach, zero by the fifth child.
8. The tax base for custodial parents liable for the public subsidy child support tax will be gross income up to the amount which, when multiplied by the tax rate, will be sufficient to recoup the public subsidy.
9. The average tax rate on custodial parents will be lower than that on absent parents. Whether this is achieved through a lower rate or an exemption has not yet been decided.

How Much Will Each Child Receive?

1. The amount to be disbursed will be equal to the amount paid by the absent parent or a publicly guaranteed minimum, whichever is larger.
2. The program will pay benefits only for children and not for the caretaker.
3. The amount collected and paid out will get smaller per child as the number of children increases.

4. The benefit will be increased annually by either the increase in the absent parent's income, or, if the child receives only the minimum benefit, by the average growth of the economy (GNP).
5. The benefit will be invariant with respect to the marital status of both the custodial and absent parent.

How Will the System Be Administered?

1. The responsibility for collecting child support from absent parents and disbursing those payments will be shifted from the county Clerk of Courts to the separate unit responsible for child support within the Wisconsin Department of Health and Social Services (hereafter referred to as the state IV-D agency).
2. The state IV-D unit will develop as rapidly as possible the computer capability to administer the system. This division will also be responsible for notifying employers of additional withholding requirements.
3. Each county IV-D program will have a computer terminal by which they may enter all new cases to the state system and get information from that system on old cases.
4. The intake process will be automatic for all new cases. Once the program is established, eligible persons will be incorporated into the system by virtue of the court's disposition of a family split or paternity decision. Existing cases will be incorporated into the system upon application for a child support benefit by the custodial parent.
5. The courts will notify the IV-D agency of new cases. The IV-D agency will then notify employees of their obligation to inform

their employers to withhold child support payments, notify employers directly about withholding, and notify custodial parents of their children's benefit entitlements.

6. Child support obligations will be treated like income and payroll tax obligations in that they will be withheld by employers in all cases. Employers will forward withheld child support payments on a monthly basis to the state IV-D unit.
7. The self-employed will make payments directly to the state IV-D unit on a monthly basis.
8. End of the year reconciliations will be done by the Department of Revenue and IV-D.

RATIONALE FOR KEY RECOMMENDATIONS

In this section, a brief rationale for seven recommendations on fundamental program design decisions is presented. More detailed papers on these issues, with the counterarguments and responses to them as well as the rationale for each major decision, are presented in Volume II of this report. The seven recommendations discussed here include the following:

1. The amount of child support owed by absent parents should be determined by a legislated formula.
2. The amount of child support received by the child should be equal to the amount paid by the absent parent or a minimum, whichever is larger.
3. Child support payments should be withheld from the wages of all those with a child support obligation if this practice (hereafter referred to as automatic wage withholding) provides in a

controlled experiment to be substantially more effective than the most efficiently administered variant of current Wisconsin law.

4. Eligibility for the new child support program should not be income tested.
5. Custodial parents who receive a public subsidy should be taxed to help finance it.
6. Publicly distributed benefits should be related to the income of the absent parent.
7. No disbursements provided under this program should be for the explicit needs of the custodial parent.

The Amount of Child Support Owed by Absent Parents Should be Determined by a Legislated Formula

Current law in Wisconsin gives judges enormous discretion in determining child support obligations. In practice judges rarely determine support amounts in divorce cases. Rather the custodial and absent parents, usually with the help of lawyers, reach an out-of-court agreement.

There are three arguments for establishing child support obligations through legislative formula rather than judicial discretion. First, in view of the existence of programs such as AFDC or child support which assure a minimum income to children in single-parent families, the public has a direct financial stake in the amount of support paid by absent parents whose children receive public benefits. The lower the amount of support paid by absent parents, the greater must be the burden on taxpayers to support a particular minimum benefit level. Courts are not suited to resolve how to apportion the support of poor children among the custodial parent, the absent parent, and the public. Rather, this is a legislative matter.

Second, the existing system results in what most people would call inequity. As noted above, how much an absent parent must pay depends upon the attitudes of local judges, the knowledge and power of the absent and custodial parents, and the skills of their lawyers. When the number of cases is small, it may be possible to achieve greater equity by tailoring agreements to each case. In a small community where the judge knows the parents and their circumstances, justice may be better served by taking account of all particulars. But when the number of cases is large and the system becomes impersonal, it is too costly to get information on all the particulars. Individualization breaks down. Inequity results.

Third, the existing system exacerbates tensions between custodial and absent parents by placing the decision on the amount of child support in an adversarial context. If clients ask, a lawyer will give his or her best guess of the most or the least the judge would buy. Some lawyers might volunteer the information. Friends will certainly volunteer information if asked and even if not asked. In such an environment both parties are likely to find cases that convince them that what they have agreed to was unfair. Nearly every absent parent can find someone who is earning more and paying less. Nearly every custodial parent knows of another custodial parent whose ex-spouse earns less and pays more child support. At its worst, therefore, the system encourages each parent to feel the other has cheated him or her with regard to the children.

The Amount of Child Support Received by the Child Should Be Equal to the Amount Paid by the Absent Parent or a Minimum, Whichever Is Larger

Under current Wisconsin law, the county Clerk of Courts serves only as a pass-through. He or she mails out child support checks to custodial

parents equal to whatever he receives from absent parents. Custodial parents whose children receive too little or no support from their absent parents and whose other sources of income are low, have no recourse other than welfare.

There are two major arguments for having a minimum benefit. The single most important argument is that it will take tens of thousands of Wisconsin women and their children off welfare. It will keep off or, get off sooner, tens of thousands more in the future. If one believes that welfare programs should be programs of last resort for the small percentage who cannot make it despite institutions like child support, getting and keeping tens of thousands of Wisconsin women off welfare counts as a very big benefit.

The second argument for a minimum benefit is that a single adult family has lower economic well-being than a comparable two-parent family with the same income. This is because the net earnings capacity of a single-parent family is lower than that of a two-parent family. A single-parent family has only one rather than two adults to earn market income, care for the children, and do homework. In short, single-parent families have a greater need for income support than two-parent families.

Yet, one need not even agree on the foregoing abstract case for providing more generously to single-parent families. AFDC already provides more generously to single-parent families. Moreover, we need not increase AFDC minimum benefit levels to improve the economic well-being of a substantial portion of the AFDC caseload. Indeed, a minimum child support benefit which is lower than the existing AFDC benefit level will simultaneously improve the economic well-being of tens of thousands of existing AFDC beneficiaries and take them off welfare.

Child Support Payments Should be Withheld from the Wages of All Those with a Child Support Obligation if this Practice (Hereafter Referred to as Automatic Wage-withholding) Proves in a Controlled Experiment to be Substantially More Effective than the Most Efficiently Administered Variant of Current Wisconsin Law

Current law in Wisconsin provides for a "contingent wage assignment" in all cases when child support is awarded. The contingent wage assignment gives legal authority to government administrators to require employers to withhold child support from wages if the absent parent is delinquent for 20 days. Present law also requires absent parents to make child support payments to the county Clerk of Courts rather than directly to the custodial parent. So by law the appropriate government officials are in a position to know if payments are delinquent.

Unfortunately, in practice, delinquencies are not normally detected for three to four months. The arrearages built up during this lag are very difficult to collect. The absent parent may have used the money for other expenses or he may have had a reduction in income during this period. In any case, the greater the lag, the smaller the likelihood of collecting.

The efficient collection of obligations will become more important under the reformed system. The number of cases potentially eligible for a public subsidy will increase substantially despite the imposition of a custodial tax. If the efficiency of collections is not improved to offset the enhanced fiscal liability, serious program deficits will occur. In addition, support obligations may increase under our reform program when normative standards are used to determine the appropriate payment. In turn, this could lead to increased avoidance behavior.

One option is to automatically withhold child support payments from all liable absent parents and not wait for a failure to pay. Another

option is to withhold only when there is a failure to pay, but to withhold more promptly and more certainly than is now the case. Under such an arrangement when an absent parent was 10 (rather than 20) days late with his child support payments to the Clerk of Courts, he would receive a notice that a wage assignment would take place 10 days following the notice unless he requested a hearing. The detection of failure to pay and notice of wage assignment would be done by a sophisticated computer system at a state-wide central registry.

Taxing income at source is generally regarded as the most effective way to collect a tax. Automatically withholding child support payments from the wages of all liable absent parents is equivalent to taxation at source and therefore may be presumed to be the most effective collection method. This presumed effectiveness of automatic withholding is the strongest argument for automatic withholding.

Another argument for withholding at source is that the obligation to support one's children is a paramount responsibility. As such, it makes sense to "guarantee" the payment of this obligation by automatic withholding.

Withholding at source also has the advantage of being a very convenient way for absent parents to discharge their obligations to pay child support. The basic objections to an automatic and universally applied wage assignment system are

1. It intrudes on the right to privacy of absent parents. An employee may not want his boss to know about a support obligation, especially if it involves an out-of-wedlock birth. He may lose his job as a result. It can be argued that he should be allowed to voluntarily comply with his support obligations before this collection mechanism is imposed.

2. Employers may be reluctant to accept this additional burden. The private sector has become increasingly vocal about governmental intrusions into its operations. Any system of collections by employers would be viewed by many as another government-sponsored irritation. It could cause significant hardship for small firms which do not have automated payroll systems. In extreme cases, it could even cause applicants for jobs to be rejected because hiring them entailed this obligation for the employer.

These objectives are serious enough to make us pause. Yet if we had to choose today between the two options, we would recommend automatic wage withholding because we believe that (1) collection effectiveness will be notably better, and (2) in practice automatic withholding will not be as objectionable as the discussion above suggests. But we could be wrong on both counts. And, most important, it is possible to find out by testing both options in several local Wisconsin jurisdictions. In a demonstration we could assess the amount and regularity of payments along with the administrative costs associated with the two approaches. In addition, we could measure the frequency and severity of stigma and employer resistance.

In short, we recommend that both options be tried in several local Wisconsin jurisdictions to ascertain how much more would be collected under automatic wage withholding and how much greater would be the invasion of privacy and administrative costs to employers.

Eligibility for the New Child Support Program Should Not Be Income Tested

If income is made a condition of eligibility, the program will not be very different from AFDC, and thus suffer from the same drawback: high benefit reduction rates (i.e., tax rates). Currently AFDC beneficiaries

pay higher tax rates than most Americans by virtue of the reduction in benefits they suffer as their earnings increase. Research indicates that how much they work is more sensitive to economic disincentives than is the labor force participation of male heads of families.¹² Placing high tax rates on AFDC mothers, therefore, discourages them from working--at least in the regular labor force, where earnings are reported routinely to government officials.

Income-tested programs by their nature segregate beneficiaries from the mainstream society by creating special institutions that serve only the poor. This institutional segregation is exacerbated by the economic disincentives which encourage beneficiaries to avoid the conventional labor market.

AFDC also stigmatizes beneficiaries. There is evidence that many beneficiaries accept the negative characterizations of welfare recipients held by others and therefore feel less worth while.¹³ A child support program which provided benefits as a matter of right to children with absent fathers from all income strata would not stigmatize beneficiaries.

Income-tested programs are more expensive per case to administer than non-income-tested programs because of the need to determine eligibility and vary benefits in terms of income. On the other hand, even though they are cheaper per case, non-income-tested programs may be more costly to administer because they serve so many more people (cases) than income-tested programs. However, in situations where the state deals with an entire population group (rich and poor alike), even if the benefit program is only for the poor (income-tested) a non-income-tested program will be cheaper to administer. Such is the case with the income tax considered in conjunction with the Food Stamps program. It costs at least \$2 billion more to administer these two programs than it would to admi-

nister a credit income tax, which would both pay benefits to and collect taxes from everyone in the population in a unified non-income-tested cash program.¹⁴ A non-income-tested approach appears to have the same potential for administrative cost savings in the child support area--at least in Wisconsin and other states in which all child support payments are channeled through government agencies. That is, while a non-income-tested child support program may be more expensive to administer than the benefit and tax sides of AFDC (Parts A and D of the statute), it is likely that it will be cheaper to administer than the combined AFDC, IV-D, and judicial systems that now serve rich and poor in different systems.

The administrative cost savings of having a single, unified, and therefore non-income-tested system distributing child support benefits will probably be dwarfed by the greater efficiency of a single, unified system in child support collections. By making child support obligations a tax and using the withholding system to collect it, we should improve collections dramatically. If the state collects payments from all absent parents, it will have to distribute those payments to the children. Thus if a single collection system is more efficient than a bifurcated system, a non-income-tested program will not only be cheaper to administer, but it will collect more as well.

Custodial Parents Who Receive a Public Subsidy Should Be Taxed to Help Finance It

The argument for a tax on custodial parents is three-fold. First it will eliminate a "horror case" and thereby increase the equity of and public support for the program. Second it will reduce the public subsidy

to split families. Third it will reduce incentives for low-income families to split or feign splitting.

Most people feel that it is unfair for all of us to finance a public subsidy to a child whose custodial parent is very wealthy. The horror case is one in which the custodial parent's annual income is \$50,000 or more, while the absent parent makes little or nothing. Is it fair to tax low- and middle-income people so the state can pay up to \$3000 to subsidize the child support benefit? It's hard to make a case that such a subsidy is just.

A tax on custodial parents in cases where the absent parent does not earn enough income to pay for the minimum benefit will obviously reduce the public subsidy. Our estimates indicate that the revenue which can be raised by a tax on the custodial parent is quite substantial, especially in cases where the minimum benefit is high. (See tables for examples.)

Finally by virtue of reducing the public subsidy, the tax on custodial parents will reduce the incentive for families with at least one low earner to split or feign splitting. While the guarantee of a minimum payment unavoidably creates such an incentive and while in our judgment the economic security for children achieved by the minimum outweighs the adverse incentive, reducing this adverse incentive is a gain.

Publicly Distributed Benefits Should Be Related to the Income of the Absent Parent

The child support program is designed to serve children with absent parents from all economic strata. If there is only a flat benefit the program will not serve children from families in the middle class and above very well. Indeed in many cases the program will worsen their situation.

For two reasons, the flat minimum benefit will tend to become a maximum benefit. Some absent parents will argue that the minimum benefit represents the cost of a child. Some judges will undoubtedly accept this interpretation. Consequently child support orders for children from middle- and upper-income families will in some cases be less than if there were no program.

Second, and more important, the very efficiency of public collection of support up to the minimum will weaken private collection above the minimum. Unless the absent parent can afford to pay a great deal more than the minimum benefit, the monetary and psychic costs of privately pursuing supplementary child support orders will discourage custodial parents from doing so. Similarly, the rewards for lawyers will also be reduced. Currently the reward for pursuing child support is the full amount of the order. Once the program is enacted, the minimum will be guaranteed. Consequently the reward to the custodial parent will be reduced to the total order minus the minimum. The reward to the lawyer will be some proportion of that. Because of this, in practice the minimum will tend to become a maximum.

Although it would be easier and cheaper to administer a program which paid only flat benefits, the administration of the entire child support system would be far more complex and costly. A flat benefit program would be accompanied by a parallel part-private, part-public system for families with middle incomes and above. These families would be served by both the new child support tax-benefit program and the supplementary payment system. In Wisconsin and other progressive states the state already plays a large role in collection and disbursement of child support for all families. All payments are supposed to go through the office of the Clerk of Courts. If there were a flat benefit program, we

would have the absurd situation of two different public agencies collecting and disbursing child support payments for the same people.

In addition to the extra complexity and public costs that would arise from this duplication of efforts produced by a flat benefit system, there will also be extra monetary and psychic costs to both the absent and custodial parents. In the absence of a predetermined child support formula, ex-spouses now quarrel over the appropriate amount of support. This potential source of continuing tension would remain in all cases where the absent parent had income in excess of the amount required to finance the minimum. Moreover once supplementary orders were established, many custodial parents would incur additional costs to enforce them.

A flat benefit system would also perpetuate the horizontal inequities of the current system. How well custodial and absent parents fared in terms of supplementary-awards collections and payments would vary even for people in identical circumstances with respect to income and family size.

Finally a program which pays benefits and collects taxes above the minimum will appear to be more equitable than a flat benefit program, because the tax on absent parents for a flat benefit system would be highly regressive on incomes in excess of that required to finance the minimum. Consequently a flat benefit program is open to the charge of being designed to "stick it to" low-income absent parents. In contrast, a program which took the same percentage of income from all absent parents (except those with exceptionally high incomes) for child support is not open to this charge. Furthermore by making middle- and upper-middle-income absent parents liable for the same proportion of their incomes for child support, the low-income absent parent will gain some

political protection. For if some percentage of income seems too high or unfair for middle-income absent parents the case would seem even stronger for low-income absent parents.

No Disbursements Provided under This Program Should Be for the Explicit Needs of the Custodial Parent

The program is for child support. Paying custodial benefits doesn't fit with the program's rationale and concept. Furthermore, we do not propose to resolve the "alimony" issue or to take alimony settlements out of the courts. Consequently, if there were a custodial-parent benefit it would have to be funded entirely by general revenues. While there is already a custodial benefit in the AFDC program, it is income tested. The child support benefits are not income tested. Extending the custodial benefit to all parents or child support beneficiaries would, therefore, be quite costly. This could only be avoided if we taxed absent parents for alimony as well as child support.

It is true that AFDC has paid custodial benefits since 1951, but program integrity and cost considerations argue strongly against a custodial-parent benefit in a program of child support. The objective of reducing welfare rolls as much as possible can be better accommodated by making the benefit for the first child higher than might otherwise be desirable than by having an explicit custodial-parent benefit. The child support benefit structure we are considering has a higher benefit for the first than for subsequent children. The major rationale for this kind of benefit structure is that there are economies of scale; the first child costs more than subsequent ones. It is possible and perhaps desirable to stretch the difference even more to "make up" for some of the custodial

benefits in AFDC. Such a family support concept has the advantage of making the payment tax deductible to the payor.

But it is not likely that we could justify a benefit structure of \$4000 for the first child and \$1000 for each subsequent child, which is approximately what would be required to replicate and therefore replace the AFDC benefit structure in Wisconsin. Differences in the cost of first and subsequent children don't appear to be nearly this large.¹⁵ Furthermore, it is likely that the cost in terms of general revenue will increase as the benefits for the first, relative to subsequent children, increase.

This raises the question of why the AFDC benefit structure pays so much more for the first than for subsequent children. Is this benefit structure simply a remnant of a time when it was assumed that the mother wouldn't and shouldn't work? From a social and economic point of view it is better for a mother with one child than for a mother with two or more children to work. One of the major rationales for adopting a new non-income-tested child support program is to reduce the implicit tax in AFDC on poor mothers and thereby encourage work. A replication of the existing AFDC benefit structure may not, therefore, be appropriate.

If we come within \$1000 or even \$1500 of the benefit for a one-child family, many current AFDC beneficiaries will not obtain AFDC supplementation because they will work and earn enough to be ineligible or discover that the supplement they are entitled to is too small to be worth the bother.

SAVINGS OF A NEW SYSTEM

In this section cost estimates for several variants of the program we have described are presented. The estimates are based upon the 1975 Survey of Income and Education (SIE) data base for the state of Wisconsin. Income figures have been inflated to 1980 dollars by the cost-of-living index.

The most difficult part of the exercise is to estimate the income of the absent parent. Income data on absent parents are not available in the SIE. Based upon relationships in the married population, we assumed that the race of the absent and custodial parents were the same, and calculated the probabilities for years of schooling and age being the same, or higher or lower. We then estimated income distributions for 36 groups, each having the same sex, race, age, and years of schooling. The probabilities were then put together with the income distributions to give us estimates of absent-parent income. Weaknesses of the methodology are discussed below.

The cost estimates are derived for both the portion of the program which involves the minimum or flat benefit, and for benefits above the minimum, which will be paid exclusively by the absent parent. Administrative costs are ignored.

In Table 2, estimates for a number of plans with different minimum benefit levels are presented. Minimum benefits, given in the first two rows of the first column of each plan, range from \$4000 to \$2000 for the first child and from \$1500 to \$1000 for the second and subsequent children. The tax rates are 20% for the first and 10% for each subsequent child with a maximum of 40% no matter how many children. Tax rates on custodial parents, not shown in the table, are one-half those on

Table 2

Fiscal 1980 Savings from Wisconsin Child Support Program as a
Function of Alternative Minimum Benefit Levels (\$ millions)

Description of Plan			(1) Benefits	(2) Tax on Absent Parent	(3) Tax on Custodial Parent	(4) AFDC Savings	(5) Net Savings (2)+(3)+(4)-(1)	% Who Pay Minimum	
								(6) Absent Parent	(7) Absent Parent Plus Custodial Parent
Benefit	Tax Rate %								
1st Child	\$4000	20	628	425	91	174	63	36	52
2nd Child	1500	10							
Maximum		40							
1st Child	4000	20	591	419	84	174	86	39	55
2nd Child	1000	10							
Maximum		40							
1st Child	3500	20	590	419	83	169	81	40	57
2nd Child	1500	10							
Maximum		40							
1st Child	3000	20	554	413	74	164	97	45	62
2nd Child	1500	10							
Maximum		40							
1st Child	3000	20	520	406	66	162	114	48	66
2nd Child	1000	10							
Maximum		40							
1st Child	2500	20	489	399	56	154	121	54	72
2nd Child	1000	10							
Maximum		40							
1st Child	2000	20	461	393	46	146	124	60	77
2nd Child	1000	10							
Maximum		40							

*Differences in tax revenue from absent-parent tax across plans are due to rounding.

absent parents. Gross benefits paid out are given in column 1, absent-parent and custodial-parent tax revenues in columns 2 and 3, AFDC savings in column A, and net savings in column 5. Net savings equal the sum of absent- and custodial-parent tax revenues and AFDC savings minus gross benefits. Finally, all of the plans in Tables 2 and 3 assume that 100% of potential absent-parent tax revenue is collected.

Savings range from a low of \$63 million to a high of \$124 million. These figures represent a nontrivial amount. In relation to current federal plus state expenditures on AFDC child support eligibles in Wisconsin in 1980, they equal approximately 20% to 40%.

Not surprisingly net savings decrease as the level of the minimum benefit increases. An increase in the minimum benefit increases total benefits paid out. Absent-parent tax revenues remain constant. (The small increases in the table are a result of rounding.) Increases in the minimum benefit, however, do lead to offsetting increases in the custodial-parent tax and AFDC savings. Thus, while increasing the minimum benefit from \$2000 for the first and \$1000 for subsequent children to \$4000 and \$1500 respectively increases total benefits paid by \$167 million, net savings decrease by only \$61 million.

One other aspect of Table 2 is worth noting. The custodial-parent tax is a significant source of revenue. The more generous the plan, the more significant the role of the custodial-parent tax. In the most generous plan, for example, the custodial-parent tax is equal to more than 25% of the absent-parent tax, while in the least generous plan, the percentage is only half that.

Table 3 is identical to Table 2 except that the tax rates rather than benefit levels are varied. The benefits in all plans are equal to \$3000 for the first and \$1500 for each subsequent child. As expected, savings

Table 3

Fiscal 1980 Savings from Wisconsin Child Support Program as
a Function of Alternative Tax Rates (\$ millions)

Description of Plan	Benefit	Tax Rate %	(1) Benefits	(2) Tax on Absent Parent	(3) Tax on Custodial Parent	(4) AFDC Savings	(5) Net Savings (2)+(3)+(4)-(1)	% Who Pay Minimum	
								(6) Absent Parent	(7) Absent Parent Plus Custodial Parent
1st Child	\$3000	25	586	455	73	171	113	50	67
2nd Child	1500	10							
Maximum		40							
1st Child	3000	25	565	426	73	170	105	47	64
2nd Child	1500	05							
Maximum		40							
1st Child	3000	20	554	413	74	164	97	45	62
2nd Child	1500	10							
Maximum		40							
1st Child	3000	20	524	365	74	163	77	40	56
2nd Child	1500	05							
Maximum		40							
1st Child	3000	15	519	358	74	158	72	37	53
2nd Child	1500	10							
Maximum		40							
1st Child	3000	15	491	304	73	154	40	31	45
2nd Child	1500	05							
Maximum		40							
1st Child	3000	20	521	358	73	163	73	39	56
2nd Child	1500	05							
Maximum		30							

Table 3, continued

Description of Plan	Benefit	Tax Rate %	(1) Benefits	(2) Tax on Absent Parent	(3) Tax on Custodial Parent	(4) AFDC Savings	(5) Net Savings (2)+(3)+(4)-(1)	% Who Pay Minimum	
								(6) Absent Parent	(7) Absent Parent Plus Custodial Parent
1st Child	\$3000	15	506	333	73	158	59	35	50
2nd Child	1500	10							
Maximum		30							
1st Child	3000	15	491	304	73	154	40	31	45
2nd Child	1500	05							
Maximum		30							
1st Child	3000	10	486	290	72	152	27	26	39
2nd Child	1500	10							
Maximum		30							
1st Child	3000	10	469	243	68	148	-10	20	30
2nd Child	1500	05							
Maximum		30							

increase with tax rates. Indeed, when tax rates are low enough, savings turn into costs.

The tax rate on the first child is a more important determinant of net savings than either the tax rate on the second child or the maximum tax rate. For example, plans 4 and 7 are identical except that the maximum tax rate in the former is 40%, while in the latter it is 30%. The difference in savings is small--less than \$5 million. In contrast, plans 1 and 5 are identical except the tax rate on the 1st child is 25% in the first and only 15% in the second. Savings fall from \$113 million to \$72 million.

For at least two reasons, the estimates of revenues from absent parents and therefore of net savings in Tables 2 and 3 are too high. First, some absent parents are in jail or another public institution. Second, no matter how efficient the collection system, less than 100% of potential revenue will be collected. In both cases, the problem will be most serious for absent parents with low earnings. In Table 4, therefore, we present additional estimates for a few plans where we assume that 20% and 40% respectively of the poorest absent parents do not pay anything at all.

What stands out in Table 4 is that the estimates of net savings are very sensitive to assumptions about collection effectiveness. Estimates range from a savings of \$97 million to additional expenditures of \$58 million.

The current system collects about 65% of the liability of absent fathers. We think that is a lower-bound estimate of the effectiveness of the new system. Of course, it is probable that the current system in practice excludes those who would be hardest to collect from. Still, we believe that effectiveness can be substantially improved. Our best guess

Table 4

Fiscal 1980 Savings from Wisconsin Child Support Program as a Function of
Percentage of Potential Absent-Parent Tax Revenue Collected (\$ millions)

Description of Plan			(1)	(2)	(3)	(4)	(5)	(6)	(7)
Benefit	Tax Rate %		Benefits	Tax on Absent Parent	Tax on Custodial Parent	AFDC Savings	Net Savings (2)+(3)+(4)-(1)	Absent Parent	Absent Parent Plus Custodial Parent
<u>Collect 100% Tax on Absent Parents</u>									
1st Child	\$3500	20	590	419	83	169	81	40	57
2nd Child	1500	10							
Maximum		40							
32 1st Child	3500	15	547	340	81	165	39	30	44
2nd Child	1500	10							
Maximum		30							
1st Child	3000	20	554	413	74	164	97	45	62
2nd Child	1500	10							
Maximum		40							
1st Child	3000	15	506	333	73	158	59	35	50
2nd Child	1500	10							
Maximum		30							
<u>Collect Nothing from Poorest 20% of Parents</u>									
1st Child	3500	20	578	348	92	166	27	34	49
2nd Child	1500	10							
Maximum		40							
1st Child	3500	15	543	285	86	164	-8	26	39
2nd Child	1500	10							
Maximum		30							

Table 4, continued

Description of Plan			(1)	(2)	(3)	(4)	(5)	(6)	(7)
Benefit	Tax Rate %		Benefits	Tax on Absent Parent	Tax on Custodial Parent	AFDC Savings	Net Savings (2)+(3)+(4)-(1)	Absent Parent	Absent Parent Plus Custodial Parent
Collect Nothing from Poorest 20% of Absent Parents									
1st Child	\$3000	20	540	344	84	159	47	38	53
2nd Child	1500	10							
Maximum		40							
1st Child	3000	15	500	279	79	155	30	30	43
2nd Child	1500	10							
Maximum		30							
Collect Nothing from Poorest 40% of Absent Parents									
1st Child	3500	20	566	274	101	163	-28	27	39
2nd Child	1500	10							
Maximum		40							
1st Child	3500	15	538	226	92	162	-58	21	32
2nd Child	1500	10							
Maximum		30							
1st Child	3000	20	525	271	94	153	-7	30	42
2nd Child	1500	10							
Maximum		40							
1st Child	3000	15	493	221	85	151	-35	24	35
2nd Child	1500	10							
Maximum		30							

is that we can collect from 80% of the absent parents. The fact that this is a guess, however, highlights the need to get more information on the effectiveness of alternative collection mechanisms.

There are many other shortcomings in our cost-estimating methodology. For three reasons, AFDC savings are underestimated. First, there were fewer AFDC beneficiaries in 1975 than there were in 1980 and receipt of AFDC is under-reported in the survey. Second, some AFDC beneficiaries will, as a result of the lower tax rate, work more. Third, some potential AFDC beneficiaries will fail to claim the AFDC supplement to which they are entitled once they are receiving the child support benefit. On the other hand, AFDC savings are overestimated because the reduced benefits of existing beneficiaries who now work are not taken into account. Moreover both the benefits paid out and the taxes collected are overestimated because in practice if there were no father identified, the child would not be eligible. We could not distinguish cases where the father was identified from cases where the father was not identified in our data. This should lead to an overestimate of the net cost or an underestimate of the net savings, because cases where the absent father is not identified are most likely to be cases where there is a public subsidy. Finally, the demographic data are for 1975. Due to increases in divorce, separation, and out-of-wedlock births, the number of eligible children has increased. This should increase both gross benefits and tax revenues. The net effect is unknown. We plan to use a new data base, the Wisconsin Basic Needs Study, to address this issue.

Despite these and other weaknesses, we believe the estimates give us reliable orders of magnitude. They suggest that the proposed reform has great promise. And, they point to the need to get better information on the effectiveness of alternative collection mechanisms.

WHAT REMAINS TO BE DONE?

To recapitulate, our child support system condones parental irresponsibility, is inequitable, exacerbates tensions between former spouses, and impoverishes children in female-headed families. The child support reform proposal shows promise of correcting these ills. By legislating a normative formula for child support and enforcing the obligation to pay child support as we enforce the obligation to pay taxes, parental responsibility would be fostered, glaring inequities eliminated, and one important source of continuing conflict between ex-spouses removed. Enactment of a child support program would also lead both directly and indirectly to improvements in the economic status of children in single-parent families. In many nonwelfare cases, child support payments will be higher than they would have been in the absence of the program. In some welfare cases, the child support payments will be high enough by themselves to obviate the need for welfare. In even more cases, the child support payment combined with a small amount of earnings will obviate the need for welfare. In all these cases economic well-being will be improved directly. In addition, by substituting the much lower custodial-parent tax for the implicit welfare tax rate, greater incentive for work will be created. To the extent that this incentive is effective, economic well-being will be improved indirectly.

Our intermediate, best-guess cost estimates suggest that these desirable objectives can be achieved with at worst a very slight increase, and at best a modest to substantial decrease, in the public tax burden. The contrast between the dismal reality of the current system and the bright promise of the proposed reform is sufficient to warrant experimentation with or demonstrations of the reform.

While the design and evaluation group has made much progress during 1981, much remains to be done. The two most important tasks are (1) refining cost estimates and (2) designing and implementing a demonstration.

During 1982 we will be able to substantially improve the cost estimates by shifting to better data bases which are just becoming available. We will use data from the state's computer reporting network (CRN) to estimate welfare cost and caseload effects. The SIE is outdated, receipt of AFDC benefits are under-reported in the SIE; and the SIE gives annual rather than monthly data on AFDC benefits. While the Basic Needs data set will cure the first problem, it will not address either the second or third. Thus, the shift to CRN. Because it is more recent, has a bigger sample, and is a richer data set, we will use Basic Needs rather than the SIE for cost estimates for the non-AFDC population.

We will use at least two and possibly three other data sources to get better estimates of the incomes of absent fathers. The Wisconsin Study of the Absent Parent's Ability to Pay Child Support will give us income tax data on absent fathers whose social security numbers are known and who file either a state or federal income tax return. The 1979 Current Population Survey will give us custodial mothers' reports on income of absent fathers. Finally, if we have time and resources we can get income data on absent fathers from the Michigan Panel of Income Dynamics.

Planning and implementing a demonstration will be a joint endeavor of IRP and DHSS staff. The nature of the demonstration has yet to be determined and will depend in part on how readily we can secure the cooperation of key county officials in several jurisdictions. If we can secure cooperation from key officials in at least four districts, it should be possible to systematically vary the options tried in the four communities

with some hope of detecting differences in outcome. Securing cooperation from fewer than four sites will probably preclude this quasi-experimental approach and limit us to piloting some features of the new system. Other key activities with respect to the demonstration include developing a set of operational rules, training field personnel, developing data collection instruments, and collecting and analyzing data from the demonstration.

In addition to refining cost estimates and designing and implementing the demonstration, we will continue work on the basic design of the program by reevaluating design decisions and, where necessary, modifying those decisions in view of feedback from government officials and community groups; completing design decisions which have yet to be made; and, reevaluating decisions in light of the rapidly changing welfare law.

Finally we will evaluate child support outcomes in Wisconsin by using newly available Basic Needs data in Wisconsin.

Notes

¹The best data on child support refers to children up to age 21 (Child Support and Alimony: 1978 (Advance Report), Current Population Reports, Special Studies Series P-23 No. 106, Bureau of the Census). This is unfortunate because in many states payments were awarded only up to age 18. Because most readily available data refer to children under age 18, we also had to estimate the number of children under age 21. The estimate of the number of children potentially eligible for child support is derived as follows: From Table 1 of the Census Bureau's Child Support and Alimony, we estimate there are 13 million children living with mothers in 1978. We assumed the 4-or-more-children category had a mean of 5. From research being conducted at the Institute for Research on Poverty we find that 16% of all children under age 18 living apart from one parent in Wisconsin live with their fathers (both single and remarried). We then applied this figure to the national data to derive our estimate of the total--15.3 million. We realize this estimate is crude, but it gives the right order of magnitude.

Our source for all children under age 21 was the Statistical Abstract of the United States 100th Edition, U.S. Department of Commerce. Table 70 indicates there were 63.2 million children under age 18 in 1978. Table 29 indicates there were another 16.9 million individuals aged 18-21. We assumed they were distributed equally in each of the four years and therefore, subtracted 1/4 of 16.9, or 4.2 million from 16.9 million to get rid of those age 21. Next we took out those who were married, widowed, or divorced. Table 59 indicates that 3.7 to 4.0 million males and 3.4 of 4.2 million females aged 18-19 were single. We

therefore subtracted another 1.1 million from 16.9. Finally, for ages 20-24, 6.3 of 9.6 million males and 4.8 of 10.0 million females were single. Taking the difference and dividing by four gives us another 3 million married, widowed, or divorced people aged 20 to subtract from 16.9 million. Thus we estimate that there are 8.6 million children aged 18, 19, and 20. The total number of children under age 21 is therefore estimated to be 71.8 million.

By dividing 15.3 by 71.8 million, we derived our estimate that one of every five children in the U.S. is potentially eligible for child support.

²Table 1, Child Support and Alimony. This number assumes that children are distributed in the same proportion as the mothers.

³See the Statistical Appendix in Daniel Patrick Moynihan, "Welfare Reform's 1971-72 Defeat, A Historic Loss," in the Journal of the Institute for Socioeconomic Studies, Spring 1981.

⁴Child Support and Alimony. Unfortunately these data refer to children under age 21 rather than age 18. In the absence of better microdata, we had to rely on the reported data for this age group.

⁵Lucy Marsh Yee, "What Really Happens in Child Support Cases: An Empirical Study of Establishment and Enforcement of Child Support Orders in the Denver District Court." Denver Law Journal, 1979, 57:1.

⁶Karl de Schweinitz, England's Road to Social Security (Philadelphia: University of Pennsylvania Press, 1943); Samuel Mencher, Poor Law to Poverty Program: Economic Security Policy in Britain and the U.S. (Pittsburgh: University of Pittsburgh Press, 1967); and Frances Fox Piven and Richard A. Cloward, Regulating the Poor (New York: Vintage Books, 1971).

⁷Child Support Enforcement Statistics, Fiscal 1981, U.S. Department of Health and Human Services Office of Child Support Enforcement, November 1981; and Donald Oellerich, "The Absent Parents' Ability to Pay: A New Measure of the IV-D Child Support Enforcement Programs for AFDC Households," in Volume III of this report.

⁸Oellerich op. cit.

⁹Statistical Abstract of the U.S. 1980, U.S. Department of Commerce, Bureau of the Census, 1981, p. 356.

¹⁰Child Support Enforcement Statistics, and Oellerich op. cit.

¹¹Oellerich op. cit.

¹²See Stanley Masters and Irwin Garfinkel, Estimating the Labor Supply Effects of Income Maintenance Alternatives (New York: Academic Press, 1977), Chapter 8.

¹³Lee Rainwater, "Stigma in Income Tested Programs," in Income-Tested Transfer Programs: The Case For and Against, edited Irwin Garfinkel (New York: Academic Press, forthcoming, 1982).

¹⁴Jonathan Kesselman, "Taxpayer Behavior and the Design of a Credit Income Tax," in Income-Tested Transfer Programs.

¹⁵Jacques van der Gaag, "The Cost of Children." Children and Youth Services Review, March 1982, Table 2, p. 22.

PRELIMINARY DRAFT OF STATUTE TO IMPLEMENT
CHILD SUPPORT BENEFIT AND TAX SYSTEM IN WISCONSIN

This is a preliminary draft of statutory language to implement in Wisconsin a new system of providing support for children of divorced, separated, or never-married parents. The proposal would establish (1) a child support benefit payable on behalf of children with a legally liable absent parent and (2) a support collection system patterned after the income tax withholding system.

(1) Placement of child support benefit in statutes. The draft creates a new chapter of the statutes to deal with the child support benefit. One of the first issues that had to be faced in drafting the statute was the placement of the statutory provisions relating to the child support benefit. Existing provisions for support of children with absent parents are found in two separate places: the aid to dependent children statute in chapter 49 and the provisions for court ordered support in chapter 767. Neither chapter seemed appropriate for the new benefit. Although the benefit will be a government guaranteed payment to children of absent parents, it is not income tested and, therefore, should not be associated with aid to families of dependent children. On the other hand, as an administratively determined payment, it did not seem to fit in with the judicial procedures of chapter 767.

Chapter 52 on support of dependents was considered, but that chapter deals primarily with the enforcement of support against nonsupporting parents. Furthermore, there seemed good reason to have the new child support benefit in the family code (chapters 765-768) which contains the provisions on marriage, dissolution, and determination of paternity. Therefore, a new chapter, chapter 769 entitled "Support of Children with Absent Parents," is proposed to include the child support benefit and perhaps the Uniform Reciprocal Enforcement of Support Act.

(2) Child support benefit. The child support benefit is a set amount, based on the number of children, payable to the custodian of eligible children. In addition to the minimum child support benefit paid to all children regardless of the amount of tax paid by the absent parent, children whose absent parent pays above the minimum in tax will receive the additional amount paid by the absent parent.

To be eligible a child must be a resident of Wisconsin under 18 years of age or, if in high school, under 19 years of age and have an absent parent who is legally liable for the child's support. Therefore, a child of never-married parents is not eligible for a child support payment until paternity is determined.

Payment of the child support benefit may begin either on application of a custodian of an eligible child or on notification by a court in a divorce, separation or annulment proceeding, a paternity action, or a separate action for support.

In an effort to ensure that money is available to be paid into the fund before disbursements are made, the payments do not begin until the second month after notification to collect the tax.

(3) Persons subject to the tax. Because the tax is assessed by the state of Wisconsin, it is limited to absent parents who are residents of Wisconsin. In drafting, it was decided to have the tax parallel the income tax (see § 71.01 (1)) although the proposal discussed in the main body of the report is not so limited.

In the draft of the statute, if the tax paid by the absent parent is insufficient to cover the amount of the basic child support benefit, reimbursement up to the amount of the benefit paid out by the state will be sought first from the custodial parent, then from the spouse of the absent parent, and last from the spouse of the custodial parent. In the case of the spouses, liability is limited to half of their income up to the specified amount on the theory that half their income is available to the other spouse. (Note that the draft of the statute is different from the proposal in the main body of the report which would tax custodial step-parents up to 100% of income but would not tax the spouse of an absent parent.)

(4) Nonresident payors and children. In the case of a nonresident absent parent, the court ordered support will be paid to the child support benefit fund. The child will, of course, be eligible for the child support benefit.

In the case of a nonresident child, the absent parent tax will be collected and that amount forwarded to the child.

(5) Transition to child support benefit program. The proposed statute provides for transition from the existing system of child support payments to the new child support benefit by allowing custodial parents to apply for the benefit and the supporting parent to request the termination of the support order when the tax withholding begins.

(6) Benefits for custodial parents. The child support benefit system does not include a benefit for the custodial parent. As a consequence of this policy of not providing a custodial parent benefit, the unit income of the custodial family that is now eligible for AFDC may be reduced when the children become eligible for the child support benefit. The draft statute proposes to handle this by providing for a benefit for the parent under AFDC. The parental benefit, unlike the child support benefit, will be income tested in the same way AFDC is.

(7) The collection mechanism. Collection of the child support tax will be handled similarly to the income tax. Amounts will be withheld based on reporting by the absent parent. The tax is not withheld until a child support benefit is to be paid.

Entry of an order or application for a child support benefit triggers a notice that the child support tax should now be withheld.

Chapter 769

SUPPORT OF CHILDREN WITH ABSENT PARENTS

769.01 LEGISLATIVE FINDING AND PURPOSE.

(1) The legislature finds that the collection of support from absent parents for children whose parents are divorced, separated, or never married has become a major social problem and that the existing procedures have proved to be inadequate.

(2) It is declared to be the policy of the State of Wisconsin to create a more effective collection mechanism and to provide more adequate support for children with absent parents through the provisions in this chapter for a child support benefit and in chapter 71 for a child support tax.

Note: This is an attempt to provide the courts and administrative agencies with a statement of legislative intent to aid in interpreting the new statutes. It is patterned after the language in several federal statutes.

769.02 DEFINITIONS.

In this chapter, unless otherwise defined:

(1) "Absent parent" is the parent who is not the custodial parent as defined in (3).

(2) "County child support enforcement agency" is the agency designated by the county board under § 59.07 (97) to administer the child support benefit or, if none is designated, the county department of social services.

(3) "Custodial parent" is the parent who has legal custody under a court order or, if no order of legal custody has been made, the parent with whom the child resides. In the case of an award of joint custody under § 767.24 (1)(b), the court in its order shall designate one parent as the custodial parent for the purposes of the child support benefit.

(4) "Dependent child" means a person who is a resident of Wisconsin

(a) under the age of eighteen or under the age of nineteen and pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent, and

(b) who has at least one absent parent legally liable for the support of the child.

(5) "Parent" means

(a) a natural mother of a child,

(b) a man presumed to be the natural father of a child under § 891.41,

(c) a man adjudged to be the natural father of a child, or

(d) an adoptive parent,

but does not include any person whose parental rights have been terminated.

Note: The definitions in this section are key to the eligibility requirements for the child support benefit.

Only children who are residents of Wisconsin are eligible. They must be under eighteen or going to high school and under nineteen. The draft uses the same language extending eligibility to nineteen as is used in § 767.26 on child support.

The child must have at least one parent who is absent. The parent may be absent because the parents separate voluntarily or one parent deserts or the parents are divorced or never married.

The child must also have a legally liable parent. The definition of parent is tied into § 891.41 which provides:

"891.41 Presumption of paternity.

"(1) A man is presumed to be the natural father of a child if one or more of the following applies:

"(a) He and the child's natural mother are or have been married to each other and the child is conceived or born during the marriage, and conception or birth takes place prior to the commencement of any action for legal separation, annulment or divorce between the parties; or

"(b) He has acknowledged his paternity of the child in writing filed with the department of health and social services; and

"1. At the time of conception he and the child's natural mother lived together; or

"2. After the child's birth he and the child's natural mother marry or attempt to marry each other by a marriage solemnized in apparent compliance with the law."

In the case of unmarried parents, the child support benefit does not begin unless the circumstances in § 891.41 (1)(b) are fulfilled or the father is determined in a judicial proceeding.

769.03 CHILD SUPPORT BENEFIT.

(1) The child support benefit is a money payment for the care of a dependent child. It consists of the following:

(a) A payment to each dependent child of \$___ per month for the first child and \$___ per month for each additional child with a maximum of \$___ for all children in a single custodial unit.

(b) An additional payment to a dependent child whose absent parent pays a child support tax that exceeds the payment specified in (a) in an amount equal to the amount of that excess.

(2) The child support benefit shall be payable monthly, beginning with the first of the second month following notification under § 767.05 (2) that child support taxes are to be collected.

(3) The child support benefit shall be payable to the custodial parent, a relative as defined in § 49.19 with whom the child resides, or a nonparent or an agency with legal custody of a dependent child.

Note: The amount of the child support benefit is to be determined.

The benefit is payable to the parent with whom the child resides. If the child does not reside with the parent or a relative, the payment is made to a nonparent or agency only if legal custody of the child has been transferred to that person or agency.

Payment of the benefit will not begin until the first of the second month after notification that a benefit is to be paid.

769.04 PAYMENT OF CHILD SUPPORT BENEFIT.

(1) Payment. A dependent child shall be eligible to receive a child support benefit as provided in § 769.03 in the following cases:

(a) upon application for such benefit by a custodial parent, a relative as defined in § 49.19 with whom the child resides, or a nonparent or an agency with legal custody of a dependent child; or

(b) upon entry of a court order under § 767.25 or § 767.51.

(2) Application. An application for a child support benefit shall be made to the county child support

enforcement agency on forms prescribed by the state department of health and social services. Information requested of the applicant shall include the following information about the absent parent of the dependent child for whom a child support benefit is sought: name, address, and social security number; the name and address of his or her employer; and any other information required by the department of health and social services.

Note: This section provides that, in addition to the child support benefit becoming operative on entry of a court order of support, an application for the benefit may be made. This is intended to take care of need pending the entry of a court order in a divorce as well as the transition from support orders existing at the time the statute becomes operative to the new child support benefit program. Custodial parents may come under the new system by applying for the benefit.

769.05 NOTIFICATION OF CHILD SUPPORT TAX.

(1) Notification to child support agency by court.

Within ten days of the entry of an order for child support under chapter 48, 52, or 767, the court shall notify the county child support enforcement agency of the name, address, and social security number of the absent parent; the number of children for whom a child support benefit is to be paid; the name and address of the employer of the absent parent; and any other information required by the department of health and social services.

(2) Notification to department of health and social services. Within _____ days of the notice by the court under (1) or the filing of an application for a child support benefit, the county child support enforcement agency shall notify

(a) the department of health and social services of any information required by it,

(b) the absent parent to modify his or her withholding exemption certificate to indicate the number of children for whom a child support benefit is being paid, and

(c) the employer of the absent parent giving the name, address, and social security number of the parent and the number of children for whom a child support benefit is to be paid.

(3) Assignment of foreign support order. If the absent parent is a nonresident of Wisconsin, payment of a child support benefit shall operate as an assignment of any support payable on behalf of a child for whom the benefit will be paid to the child support benefit fund in § 769.06.

(4) Termination of support order. Payment of a child support tax shall terminate any child support order entered under chapter 48, 52, or 767 prior to January 1, 1983.

Note: This section contains the mechanics for setting in motion the collection of the child support tax.

In the case of payment of a child support benefit on behalf of a child receiving child support from a nonresident parent, the payment of the benefit acts as an assignment of the payments under the support order to the child support benefit fund.

769.06 CHILD SUPPORT BENEFIT FUND.

(1) A trust fund to be known as the child support benefit fund is created on the books of the treasurer of the state of Wisconsin. Appropriated to the child support benefit fund for the fiscal year ending _____ and for each fiscal year thereafter are amounts equivalent to:

- (a) the money collected under § 71.094,
- (b) amounts paid by or collected from nonresident absent parents whose children receive child support benefits under §§ 769.03 and 769.04,
- (c) amounts from the general revenues of the state of Wisconsin to the extent necessary to pay the difference between the amounts in (a) and (b) and the amount of child support benefit payments made.

(2) Child support benefits under § 769.03 shall be paid from the child support benefit fund.

(3) Child support tax payments paid by a resident absent parent whose child is a nonresident shall be forwarded to the custodian of the child.

Note: Child support benefits will be paid from a fund consisting of the absent parent tax and child support paid by nonresident parents.

The concept of a special fund is patterned after the social security statute.

If the child is a nonresident, the tax payments, but nothing more, will be forwarded to the child.

Create § 71.094 to read:

71.094 CHILD SUPPORT TAX.

(1) Tax on absent parent.

(a) For the purpose of raising revenue to provide support for dependent children under ch. 769, a tax shall be assessed, levied, collected, and paid on all income of a parent who is subject to the personal income tax under § 71.01 (1) and who is

1. the absent parent of a child who is eligible to receive a child support benefit under § 769.03 or

2. is subject to a child support order if the child is a nonresident.

(b) The tax shall be levied on all income after the date of the entry of an order under chapter 48, 52, or 767 or the filing of an application for a child support benefit under § 769.03.

(c) The rate of the tax on the absent parent shall be ___ percent if one child is eligible for support, ___ percent if two children are eligible, ___ percent if three children are eligible, ___ percent if four children are eligible, and ___ percent if five or more children are eligible.

(d) After the date of the filing of an application for a child support benefit under § 769.03, payments made on a child support order entered by a court in this state or elsewhere for the benefit of the applicant child, may be credited against the child support tax due under this section.

(2) Additional child support tax. For the purpose of reimbursing the state for amounts paid in a child support benefit under § 769.03 that were in excess of amounts paid in child support tax under sub. (1)(a) by the absent parent, a tax shall be assessed, levied, collected, and paid on the following:

(a) The income up to \$_____ of the custodial parent of a child who receives a child support benefit

under § 769.03, at the rate of ___ percent if a child support benefit is paid for one child, ___ percent if a child support benefit is paid for two children, ___ percent if it is paid for three children, ___ percent if it is paid for four children, and ___ percent if it is paid for five or more children, up to the amount paid by the state in excess of that paid by the absent parent.

(b) If the tax collected under (2)(a) does not reimburse the state, fifty percent of the income up to \$_____ of the spouse of an absent parent whose child receives a child support benefit under § 769.03 at the rate of ___ percent if a child support benefit is paid for one child, ___ percent if a child support benefit is paid for two children, ___ percent if it is paid for three children, ___ percent if it is paid for four children, and ___ percent if it is paid for five or more children, up to the amount paid by the state in excess of that paid by the parents of the child.

(c) If the tax collected under (2)(a) does not reimburse the state, fifty percent of all income up to \$_____ of the spouse of a custodial parent whose child receives a child support benefit under § 769.03 at the rate of ___ percent if a child support benefit is paid for one child, ___ percent if a child support benefit

is paid for two children, ___ percent if it is paid for three children, ___ percent if it is paid for four children, and ___ percent if it is paid for five or more children, up to the amount paid by the state in excess of that paid by the parents of the child and the spouse of the absent parent.

Note: This provision levies a child support tax on all absent parents subject to the Wisconsin personal income tax.

Subsection (1)(d) is intended to provide relief for absent parents who are under existing support orders when this legislation becomes effective and the custodial parent applies for a child support benefit.

Subsection (2) tries to set up a procedure for collecting, from the custodial parent and from stepparents, amounts paid from the state treasury in child support benefits. The scheme places responsibility first on the custodial parent, then on the spouse of the absent parent, and finally on the spouse of the custodial parent. The reasoning behind this progression is that the child's parent ought to be primarily responsible for reimbursing the state; next the spouse of the absent parent up to 50 percent of his or her income. The spouse of the custodial parent is tapped last for up to 50 percent of his or her income because that stepparent contributes to the support of the child in the ongoing family relationship.

Create § 71.105 to read:

71.105

Annually the department of health and social services shall determine any deficiency between the amount paid in child support tax by the absent parent and the child support benefit paid to the child and shall seek reimbursement as provided in § 71.094 (2).

Create § 71.20 (8m) to read;

71.20 EMPLOYERS REQUIRED TO WITHHOLD.

(8m) On or after January 1, 1983 (or on or before the date on which an employee commences employment with an employer after such date), each employee who is liable for a child support tax under § 71.094 shall furnish his or her employer with a signed certificate indicating the number of his or her children for whom a child support benefit is being paid. The provisions in (8) relating to withholding certificates for income tax shall apply to this section.

Create § 71.205 to read:

71.205 EMPLOYER REQUIRED TO WITHHOLD CHILD SUPPORT TAX.

(1) On and after January 1, 1983, every employer required to withhold income taxes under § 71.20 shall also withhold a child support tax according to tables prepared under subsection (2) for all persons whose withholding certificate under § 71.20 (8m) indicates that a child support benefit is being paid.

(2) Prior to January 1, 1983, the department shall prepare, promulgate, and publish in the official state paper, without regard to the requirements of ch. 227, rules establishing withholding tables for the child support tax in the same manner as withholding tables for personal income tax.

(3) The employer shall deduct and transmit the child support tax to the department of social services on a quarterly basis.

Create § 71.215 to read:

71.215 DECLARATION OF ESTIMATED CHILD SUPPORT TAX.

Every individual required to file a declaration of estimated tax under § 71.21 shall, if liable for a child support tax under § 71.094 (1), also file a declaration of estimated child support tax.

Create § 49.19 (1)(d) to read:

49.19 AID TO FAMILIES WITH DEPENDENT CHILDREN.

(1)(d) A custodial parent of a child or a relative under § 49.19 with whom the child resides who receives a child support benefit under § 769.03 but who would be eligible for aid to dependent children under this section if no child support benefit were available, may apply for aid under this section as a family of one.

Note: This subsection provides for an income-tested custodial parent benefit. Under it, a parent whose children would receive AFDC under the present system is eligible for a benefit under AFDC as a custodial parent. This benefit will have to be applied for and justified separately from the child support benefit that is available to eligible children regardless of income.

This subsection is not seen as increasing the number of persons on AFDC because a parent would not be eligible unless the children would be eligible except for the child support benefit.

Amend § 52.10 (24) to read:

52.10 REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT.

(24) Order of Support. If the responding court finds a duty of support it shall enter an order pursuant to s. 767.25 that the obligor is now liable for the child support tax and may order the obligor to pay arrears or to furnish support-~~or~~ reimbursement therefor for support furnished and subject the property of the obligor to the order. ~~Support~~ Orders made pursuant to this section shall require that payments be made to the clerk of the court of the responding state. The court and district attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the district attorney shall send a certified copy of the order to the district attorney of any county in which it appears that proceedings to enforce the order would be effective. The district attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. The enforcement may proceed as provided in subs. (37) to (40).

Amend § 767.10 to read:

767.10 STIPULATION AND PROPERTY DIVISION.

The parties in an action for an annulment, divorce or legal separation may, subject to the approval of the court, stipulate for a division of estate, for maintenance payments, ~~for the support of children, for periodic family support payments under s. 767.261~~ or for custody and visitation, in case a divorce or legal separation is granted or a marriage annulled.

Subsections (1)(c) and (e) of § 767.23 are repealed.

Note: In 767.10 dealing with the stipulation and 767.23 dealing with matters pending divorce, references to child support and family support are deleted. Pending a divorce, a custodial parent may apply for a child support benefit.

Amend § 767.245 (6) to read:

767.245 VISITATION.

(6) Whenever the court grants visitation rights to a parent, it shall order the child's custodian to obtain written approval of the parent having visitation rights or permission of the court in order to establish legal residence outside this state or to remove the child from this state for a period of time exceeding 90 days. Such court permission may be granted only after notice to the parent having visitation rights and after opportunity for hearing. Violation of a court order under this subsection may be deemed a change of circumstances under s. 767.32, allowing the court to modify the judgment with respect to custody, ~~child support and visitation rights so as to permit withholding of a portion of the support payments to defray the added expense to the parent with visitation rights of exercising such rights or to modify a custody order.~~

Amend § 767.25 (1) to read:

767.25 CHILD SUPPORT.

(1) After January 1, 1983, upon every judgment of annulment, divorce, legal separation, or paternity, or in rendering a judgment in an action under s. 767.02 (1)(f) or (j) or s. 767.08, the court shall enter an order that the absent parent is now liable for the child support tax and shall notify the county child support enforcement agency of the order. In addition, the court may specifically assign responsibility for payment of medical expenses. If the absent parent is not subject to the Wisconsin income tax under s. 71.01, the court may order that parent either-or-both-parents-to-pay-an-amount-reasonable-or-necessary-for-support-of-a-child-and-shall-specifically-assign-responsibility-for-payment-of-medical-expenses,-after-considering- [repeal (1)(a) through (i)] to pay an amount equal to the child support tax paid by resident absent parents.

Note: This amendment provides one way in which the child support benefit begins, i.e., upon entry of a court order.

If the absent parent is not subject to the Wisconsin income tax, i.e., is a nonresident, the court makes a child support order to serve in lieu of the child support tax.

Create § 767.25 (6) to read:

767.25 CHILD SUPPORT.

(6) If joint custody is awarded under § 767.24 (1)(b), the court in its order shall designate one parent as the custodial parent for purposes of the child support benefit.

Amend § 767.255 (8) to read:

767.255 PROPERTY DIVISION.

(8) The amount and duration of an order under s. 767.26 granting maintenance payments to either party, ~~any order for periodic family support payments under s. 767.261~~ and whether the property division is in lieu of such payments.

Section 767.261 is repealed.

Section 767.265 is repealed.

Amend § 767.28 to read:

767.28 Maintenance, custody and support when divorce or separation denied. In a judgment in an action for divorce or legal separation, although such divorce or legal separation is denied, the court may make such order for the custody of any of the minor children and for the maintenance of either spouse ~~and support of such children by either spouse~~ out of property or income, as the nature of the case may render just and reasonable.

and may order that the child support tax shall be paid.

Section 767.29 is amended to read:

767.29 Maintenance payments, clerk of court, family court commissioner, fees and compensation. (1) All orders or judgments providing for temporary or permanent maintenance payments ~~or support of children~~ shall direct the payment of all such sums to the clerk of the court for the use of the person for whom the same has been awarded. A party securing an order for temporary maintenance payments ~~or support money~~ shall forthwith file said order, together with all pleadings in the action, with the clerk of the court. Said clerk shall disburse the money so received pursuant to said judgment or order and take receipts therefor. All moneys received or disbursed under this section shall be entered in a record book kept by said clerk, which shall be open to inspection by the parties to the action, their attorneys, and the family court commissioner. If the maintenance payments ~~or support money~~ adjudged or ordered to be paid shall not be paid to the clerk at the time provided in said judgment or order, the clerk or the family court commissioner of said county shall take such proceedings as either of them deems advisable to secure the payment of such sum including enforcement by contempt proceedings under ch. 785 or by other means. Copies of any order issued to compel such payment shall be mailed to counsel who represented each party when such maintenance payments ~~or support money~~ was awarded. In case any fees of officers in any of said proceedings including the compensation of the family court commissioner at the rate of \$50 per day unless such commissioner is on a salaried basis, be not collected from the person proceeded against, the same shall be paid out of the county treasury upon the order of the presiding judge and the certificate of the clerk of the court.

(2) If any party entitled to maintenance payments ~~or support money, or both~~ is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department of social services or public welfare or municipal relief agency granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments ~~or support money~~, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of maintenance payments ~~and support money~~ previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments ~~or support money~~ adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the clerk of court, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 49.19, shall forward all support assigned under s. 49.19 (4) (h) 1 to the department.

(3) If maintenance payments ~~or support money, or both~~ ^{are} is ordered to be paid for the benefit of any person, who is committed by court order to an institution or is in confinement, ~~or whose legal custody is vested by court order under ch. 48 in an agency, department or relative~~, the court or family court commissioner may order such maintenance payments ~~or support money~~ to be paid to the relative ^{or} agency, institution, welfare department or other entity having the legal or actual custody of said person, and to be used for the latter's care and maintenance, without the appointment of a guardian under ch. 880.

Create § 767.29 (4) to read:

767.29 MAINTENANCE PAYMENTS, CLERK OF COURT, FAMILY COURT COMMISSIONER, FEES AND COMPENSATION.

(4) If support money is ordered to be paid by a parent who does not reside in Wisconsin and if a child support benefit is being paid under § 769.03, the court or family court commissioner may order such support money to be paid to the child support benefit fund in § 769.06.

Note: Although application for a child support benefit is to act as an assignment of the support order to the child support benefit fund, this provision seems desirable.

Amend § 767.30 to read:

767.30 Enforcement of maintenance payment and child support orders. In all cases where payments under s. 767.23, child support payments under s. 767.25, maintenance payments under s. 767.26, family support payments under s. 767.261, where child support, family support or maintenance payments are ordered in a temporary order under s. 767.23 or attorney fees under s. 767.262 are ordered, the court may provide that the same shall be paid in such sums and at such times as shall be deemed expedient, and may impose the same as a charge upon any

specific real estate of the party liable or may require sufficient security to be given for payment according to the judgment; and upon neglect or refusal to give such security or upon the failure to pay such payments or fees the court may enforce the payment thereof, including past due payments, by execution, under ch. 785, by money judgment for past due payments, by satisfaction under s. 811.23 out of any property attached under ch. 811 or otherwise as in other cases. No such judgment shall become effectual as a charge upon specific real estate until the judgment or a certified copy thereof is recorded in the office of the register of deeds in the county in which the real estate is situated.

This section

applies to child support and family

support orders entered prior to

January 1, 1983.

Amend § 767.305 to read:

767.305 Enforcement; contempt proceedings. In all cases where a party has incurred a financial obligation under s. 767.23, 767.25, 767.255, 767.26, ~~767.261~~ or 767.262 and has failed within a reasonable time or as ordered by the court to satisfy such obligation, ~~and where the wage assignment proceeding under s. 767.265 is inapplicable, impractical or unfeasible,~~ the court may on its own initiative, and shall on the application of the receiving party, issue an order requiring the payer to show cause at some reasonable time therein specified why he or she should not be punished for such misconduct as provided in ch. 785.

Re-number § 767.305 to be § 767.305 (1) and create § 767.305 (2):

767.305 ENFORCEMENT; CONTEMPT PROCEEDINGS.

(2) Proof of payment of a child support tax under §§ 71.094 and 71.205 or 71.215 is a defense to a contempt proceeding under ch. 785 for nonpayment of child support.

Section 767.32(1) is amended to read:

767.32 Revision of judgment. (1) After a judgment providing for ~~child support under s. 767.25~~, maintenance payments under s. 767.26 or ~~family support payments under s. 767.261~~, or for the appointment of trustees under s. 767.31 the court may, from time to time, on the petition of either of the parties, or upon the petition of the department of health and social services, a county welfare agency or a child support agency if an assignment has been made under s. 49.19 (4) (h) or if either party or their minor children receives aid under ch. 49, and upon notice to the family court commissioner, revise and alter such judgment respecting the amount of such maintenance or child support and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment respecting any of the matters which such court might have made in the original action, except that a judgment which waives maintenance payments for either party shall not thereafter be revised or altered in that respect nor shall the provisions of a judgment with respect to final division of property be subject to revision or modification. ~~Any change in child support because of alleged change in circumstances shall take into consideration each parent's earning capacity and total economic circumstances. In any action under this section, receipt of aid to families with dependent children under s. 49.19, or a substantial change in the cost of living by either party or as measured by the federal bureau of labor statistics may be sufficient to justify a revision of judgment.~~

Section 767.32(4) and section 767.33 are repealed.

Repeal § 767.51 (5); renumber subsections (6) and (7) to (5) and (6). Amend § 767.51 (3) to read:

767.51 PATERNITY JUDGMENT.

(3) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support under § 767.25, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order shall provide that the father may now be liable for the child support tax. The court shall notify the child support enforcement agency of the judgment or order. If the absent parent is not subject to the Wisconsin income tax, the court shall order that parent to pay an amount equal to the child support tax paid by resident absent parents. The judgment or order may direct the father to pay or contribute to the reasonable expenses of the mother's pregnancy and confinement during pregnancy and may direct either party to pay or contribute to the costs of blood tests, attorney fees and other costs. Contributions to the costs of blood tests shall be paid to the county which paid for the blood tests.

Section 767.39 (1) is amended to read:

767.39 Maintenance payments or other allowances pending appeal. (1) In actions affecting the family pending in an appellate court, no allowance for suit money, counsel fees or disbursements in the court, nor for temporary maintenance payments to the spouse ~~or the children~~ during the pendency of the appeal will be made in the court.