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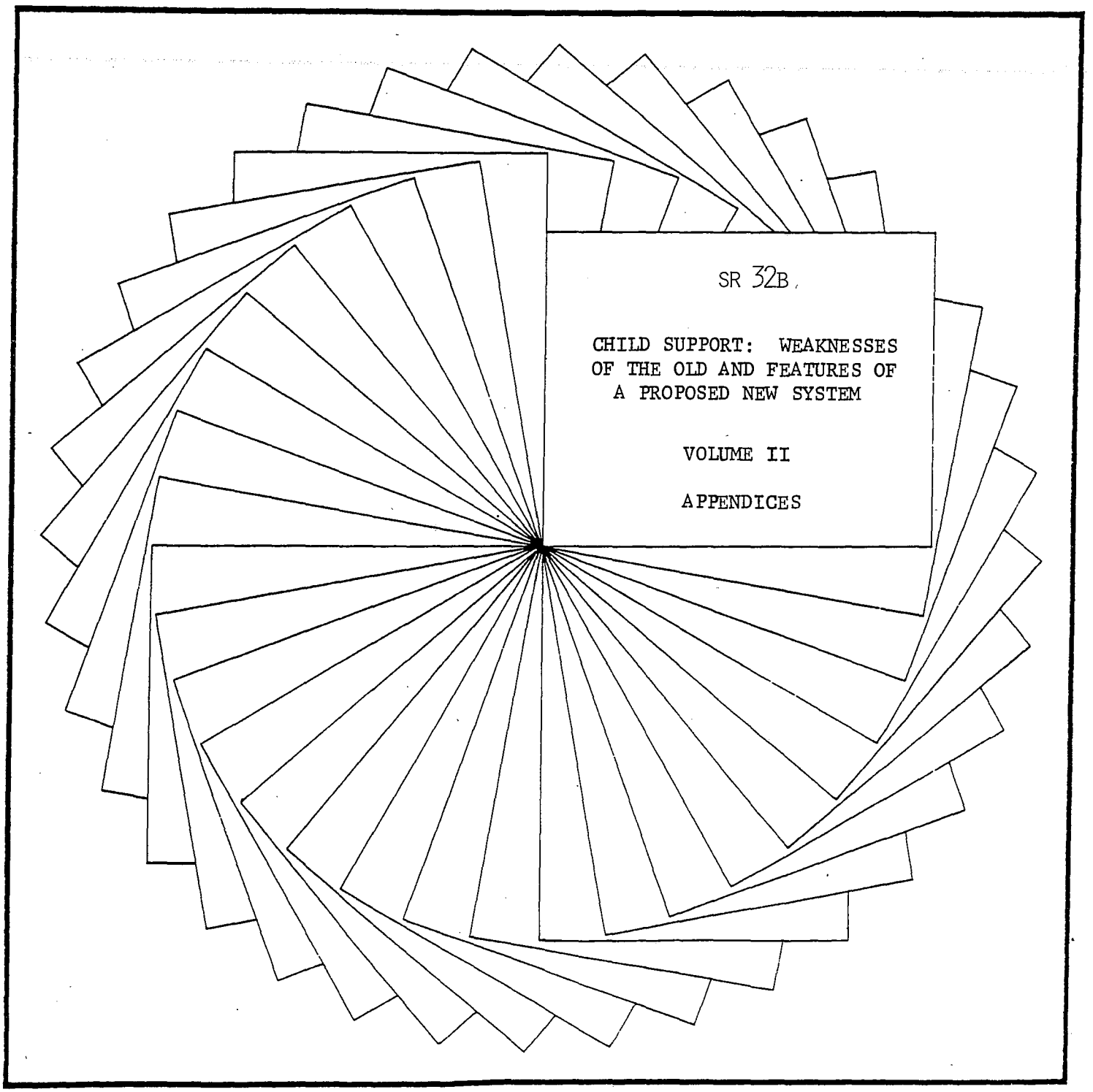

VOLUME II CONTENTS

A DEMONSTRATION OF THE WISCONSIN CHILD SUPPORT REFORM PROGRAM

I. OBJECTIVES

The overall objective of this project is to pilot the major concepts of the Wisconsin Child Support Reform project. Specifically, this involves the following:

A. Develop and implement a process through which child support obligations can automatically be collected at the source of income through the use of automatic wage assignments

B. Develop and implement a procedure by which support obligations can be automatically established in accordance with an acceptable normative standard.

C. Estimate the costs and distributional effects of guaranteeing a minimal benefit to all eligible children (except as modified by a modest tax on the custodial parent income).

D. Develop, test, and improve the administrative structure and processes necessary to operate a reformed system, particularly a central registry and automated case management system.

II. BACKGROUND AND IMPORTANCE OF PROJECT

Child Support as a Public Concern

Ensuring that the economic needs of children are met has been a societal concern since the turn of the century. Attention first focused upon children deprived of support through the death or the disability of the family breadwinner; the response was largely in the form of private charity. The advent of Mothers Pension in 1911 and later of Aid to Families with Dependent Children (AFDC) transformed that largely private concern into a public responsibility to be financed with tax dollars. To the extent that such programs remained small in scope and encompassed "acceptable" cases, where economic deprivation occurred through no fault of the parents, public suport was forthcoming.

Over the past three decades, revolutionary changes in patterns of family formation and splitting have eroded the stability associated with the nuclear family. Simultaneously, the role of the public sector in meeting the needs of children has increased dramatically. For example, more than one out of three marriages ends in a divorce. Moreover, the divorce rate has doubled in the past 10 years. The incidence of illegitimacy has also grown. By the mid-1970s 15% of all births were out of wedlock and an illegitimate child can be found in almost half of all AFDC cases. Family instability is reflected in the fact that 1 out of 6 children lives with only one parent and another 1 out of 8 lives with a step-parent.

Support and Enforcement Initiatives, 1950-1975

Although the evidence documenting increased family instability and the enhanced role of the public sector in providing economic support to children is quite clear, an effective approach to ensuring that liable parents meet the needs of their offspring has been elusive. The role of state and federal agencies in this effort has steadily expanded. Early efforts focused upon moderate initiatives: In 1950 section 402(a) (11) was added to the Social Security Act to establish the NOLEO requirements and legislation facilitating interstate cooperation in enforcement was enacted. In the mid-1960s Public Laws 89-97 and 90-248 provided some assistance to states in locating absent parents.

In the late 1960s and early 1970s, administrative energies shifted toward encouraging the custodial parent who was actually (or potentially) dependent upon public support to make a more vigorous effort in the labor market. The 1962 Social Service amendments, the WIN legislation of 1967 and 1972, and the reduction in the tax rates on AFDC recipients (implemented in 1967) represent concerted efforts to reduce public dependency by improving the human capital, employment opportunities, and the job-seeking motivation of those custodial parents responsible for economically deprived children.

Coincidentally with these initiatives, the AFDC program grew from somewhat more than one million cases in 1965 to over 3.5 million in 1975.* Perhaps more distressing, the percentage of children under 18 receiving AFDC more than doubled during this decade (from less than 5% to more than 11%). Clearly the employment strategy was not efficacious. It was undermined by labor market externalities (e.g., labor demand) and the apparently unresolvable enigma of providing adequate assistance guarantees, given reasonable benefit reduction rates and program costs (i.e., the famous "welfare wall" described by Martin Anderson and David Stockman among many others).

Recent federal initiatives have been predicated upon what might be termed as the failure of the "labor supply" approach to reducing welfare dependency. Based upon the fact that a smaller proportion of the national AFDC caseloads are now employed as compared with the pre-1967 caseload (i.e., before the introduction of WIN and reduced benefit reduction rates), the approach of reducing welfare dependency by encouraging custodial parents into the labor market has largely been abandoned. WIN appropriations have been cutback by one-third (and might be eliminated in the 1983 Federal budget) and positive economic incentives to seek employment (i.e., the 30+ one-third disregard) have been eliminated after the fourth month of employment. Clearly the traditional labor supply approach to reducing public dependency has been abandoned in the short run.

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*Program growth has only marginally increased since that point in time.

The passage of PL-647 in 1975 presaged the renewal of governmental efforts to directly address the needs of economically deprived children, by directing administrative energy toward ensuring that liable absent parents will meet their familial obligations. Every effort was to be made to ensure that absent liable parents would meet those needs. The elements of that legislation are well known and will not be repeated here. The performance of that program is illustrative of the scope of the problem. In one sense, progress has been dramatic: between 1976 and 1980 state collections under the IV-D program tripled, from about $0.5 billion to $1.5 billion. But concomitantly, state administrative expenses grew from approximately $140 million to $450 million, reflecting increased efforts by the states to develop effective programs. In FY 1980, collections on behalf of AFDC families was a fraction over $600 million. This represents a little more than 5% or program expenditures. Clearly the battle to ensure that absent parents meet their financial obligations to children who live in poor single-parent households has yet to be won. Substantial improvements have been made, but it is clear that much remains to be done if the now accepted role of the public sector in ensuring economic support for children in single-parent families is to be effectively pursued.

The best evidence regarding the failure of current approaches to securing child support payment is provided by the work of Sórenson and MacDonald (1981). Building upon the pioneering work of Cassetty (1978) and Jones et al. (1976), they analyzed data from the 1975 Survey of Income and Education Survey (SIE), the 1977 Aid to Families with Dependent Children Survey (AFDC), and the 1979 Current Population Survey (CPS). Their analysis suggests that no more than one out of four (1975 SIE source)--at most one out of three (1979 CPS source)--of women eligible for child support actually receive any payments from the absent parent. In 1977 only one out of ten female heads of families receiving AFDC received any support payments (or, more accurately, payments were received to reduce the public level of support). Their investigation also suggests that, not surprisingly, obtaining a support order is a key factor in determining whether or not any payments are received from the liable absent parent. However, even with a support order, payments (even partial payments) are received in behalf of less than six out of ten poor families headed by women eligible for support payments (1979 CPS source) and by less than four out of ten families headed by women receiving AFDC benefits (AFDC source). According to the 1979 CPS survey, approximately seven out of ten eligible families with a support order (total population) received some support payments.

Several aspects of this seminal analysis must be noted. First, securing a support order is important to receiving any subsequent payments. Second, the percentages only indicate that some support had been received during the period of the survey, without indicating the proportion of the order received. Third, this analysis does not address the issue of whether or not the order was adequate with respect either to the absent parent's ability to pay, or the needs of the recipient family.

Fourth, the amount and regularity of actual payments received was not equated with the absent parent's actual ability to pay. And fifth, the data suggest that payments, and particularly the incidence of secured support orders, do vary according to the socioeconomic, the racial identification, and the location of this custodial parent suggesting serious problems of programmatic equity.

One message that can be derived from this analysis is that the usual method of collecting ordered support obligations remains insufficient. Sørensen and MacDonald note that "once child support had been awarded, the probability of collecting any of the award varied significantly by state...it is clearly possible to improve the collection of awarded child support (p. 35)." Improving the collection process, given the prior history of failure to secure payments from absent liable parents, may involve moving toward a collection process that routinizes the system of collections and reduces the voluntary character of the payment act. That is, once liability is established, the collection process should be made as automatic as possible.

Guiding Concepts of the Wisconsin Child Support Reform Project

The State of Wisconsin Division of Economic Assistance, in cooperation with the Institute for Research on Poverty (University of Wisconsin) has now initiated a process of research and program development which encompasses the major substantive elements of a comprehensive reform of the child support system. This reform agenda includes developmental efforts to improve the following components of the child support system: (1) establishing efficacious and equitable normative standards for establishing child support obligations; (2) collecting those obligations in the most cost beneficial manner possible; (3) guaranteeing that the financial needs of children are met (somewhat consistent with the capacity of the custodial parent to meet those needs); and (4) developing appropriate administrative support systems upon which to operate an improved system. Each of these concepts are briefly reviewed below.

(1) Establishing normative standards. In general, it is clear that the child support system has remained inefficient by virtue of its archaic assumptions and implementation procedures. That is, the system has traditionally operated as if child support were a private matter to be resolved, at worst, through an adversial judicial relationship. Establishment and execution of the agreement have been carried out as if no public externalities (e.g., government programs of financial aid) were involved. While a number of steps have been taken over the past six years, the basic approach to child support remains the same. The establishment of support orders remains a discretionary procedure influenced by the idiosyncratic artifacts of the judicial process and irrelevant circumstances of the principal parties. The modification of

initial orders and/or their enforcement remain subject to procedures that have not proved fruitful in the past. In short, the current system does not efficiently establish and enforcement support collections. This failure is distressing since the principle of ensuring the financial support of children by their liable parents ought to be a cornerstone of public sector policy regarding the family

(2) Collecting support obligations. Establishing support obligations through a simple and uniform administrative procedure based upon the ability to pay is one step in the right direction. Collecting such obligations in an equally direct, yet simple manner is equally important. Consistent with the notion of collecting support obligations simply and uniformly (and also in conformance with the precept of ability to pay) lies the concept of taxation at the source of income. That is, the duty to support one's offspring represents a pre-eminent debt, a responsibility on the order of paying one's taxes that should not be left up to the discretion of the obligor. Absent parents should not be allowed to choose whether or not to make their support payments on the basis of their own priorities. Given this assumption, one route that immediately suggests itself--and that is followed in the case of collecting most personal income taxes--is automatic subtraction of the child support obligation from earnings. While an automatic wage assignment represents the most familiar variation upon this theme, it can best be thought of as a "tax" upon earnings.

"Taxing" income at the source for this purpose has several rather obvious benefits. First, like general taxation, child support is clearly treated as a pre-eminent debt, collected prior to the disbursement of resources for other purposes. Second, consistent with the first point, child support does not rely upon the voluntary compliance of the absent parent. This is important, since the decision to comply with a support obligation at a given point in time is dependent upon many factors, ranging from simple avoidance to complex personal circumstances, including newly acquired debts or personal difficulties with the custodial parent. Third, child support can be collected efficiently. Because obligors are not required to voluntarily mail their support obligations or pay in person, delays in payment and/or inconveniences experienced in meeting this obligation should be minimized. Fourth, it should be possible to improve the administrative response to delinquency in support payments. Currently, delinquency often goes undetected for substantial periods of time. Inefficient methods of both support collections and reviews of payment performance result in long delays between the onset of delinquency and its subsequent detection. This is particularly true of non-AFDC cases (where families might be forced into public aid), where the notification of delinquency to officials depends upon the personal initiative of the custodial parent.

Despite the advantages, the concept of "taxing" support obligations at the income source contains several problematic issues. It is not clear that all the principals will be receptive to such an innovation. Obligors who fully intend to comply, and can or have demonstrated such,

may resist and additional "tax" upon their earnings. The very individual act of complying with child support obligations may, for many, contain psychologically satisfying elements. Employers may resist the added burden of withholding and forwarding support obligations as yet another intrusion upon their affairs. In an area where the impulse to free the private sector from governmental impositions has great currency, any additional request may be carefully considered.

(3) Minimal child support guarantee. Establishing adequate support obligations and improving the process by which those obligations are collected will not ensure that eligible children will, in fact, realize such financial benefits. Any system is subject to avoidance behaviors on the part of obligors, to administrative failings, and to externalities (e.g. economic vicissitudes) which will undermine its optimal functioning. In addition, there is a normative question. It is arguable that children, as vulnerable members of society, deserve some form of publicly guaranteed support, whether it comes from their natural parents living together, from (in part) an absent parent through the child support system, or from government in the form of a universally (almost) guaranteed subsidy. The big issue here is the potential costs for such a guarantee, particularly in a localized pilot project. Consequently while the pilot may not be able to actually guarantee a minimal child support payments, it could simulate the economic outcomes if such a guarantee (or such a guarantee as modified by a modest custodial parent tax) were part of the final child support plan.

(4) Sophisticated/automated case management system. It is imperative that, for an efficiently structured and operated child support system to be developed, an automated central registry be available. Such a computer capability is not developed easily nor without a period of trial and error. The pilot would be used to test and debug both the computerized case management system and other supportive administrative systems.

III. BASIC PREMISES OF THE PILOT PROJECT: THEORETICAL AND PRACTICAL ASPECTS

Ultimately, the attractiveness of this approach is based upon the feasibility of implementing what appears to be a theoretically attractive set of concepts. It is imperative that the real benefits and actual costs be carefully established. These costs potentially include dimensions that are both human--people may believe that normative standards and/or income assignments represent an unnecessary intrusion into their lives--and fiscal--the actual administrative costs attributable to both government and employers amy exceed realized benefits.

A. Establishing Child Support Obligations Through the Use of Universally Applicable Normative Standards

As noted above, establishing an adequate child support order represents a critical step in the process of ensuring that the financial needs of the nation's children are being met. However, available evidence suggests that only about 60% of split families is an order actually consummated. Furthermore, these orders are subject to such manipulation and negotiation by both parents that, despite the apparent concern for the child, substantial inequities in the final judicial disposition of such cases results. Far too often, support orders are determined by the quality and aggressiveness of the attorneys representing each party and not the needs of the affected children or, perhaps more importantly, the ability to pay of the absent parent. In addition, the judicial system is not set up to efficiently respond to a need to quickly establish an obligation nor to routinely update orders which have been eroded (in real money terms) by inflation. Consequently orders too often are not established, are established inequitably, or are not updated over time, factors which seriously undermine the adequacy of the existing child support system.

The basic approach to resolving this problem, as conceptualized by the Wisconsin Child Support reform project, is to establish the support obligation as a percentage of the absent parents gross income up to a pre-established maximum. By indexing that maximum acording to a wage-based index, the task of adjusting for inflation is automatically built into the order. The basic concept behind this approach is that "rough" justice in establishing support obligations is best served by linking such liabilities to the actual income of absent parents. This prevents several problems including: (1) their abusing the system by artificially increasing their debts (i.e., buying an expensive car); (2) protecting them from the accumulation of arrearages if their income were to decline in the face of an absolute support obligation; (3) approximating the general proportion of income they would have shared with their offspring were they still living with them; and (4) automatically accounting for improvements in the absent parents' economic well being.

While additional detail regarding the specifics of the normative standard that will be employed in the pilot project is available in the forthcoming report of the Wisconsin Reform Project Team, the following is offered for illustrative purposes. The absent parent would pay 20% of gross income for one absent child, 30% for 2, 35% for 3, 37.5% for 4, up to a maximum of 40% of their gross income. In effect, this represents an asymptotic relationship between the percentage of their income which will be assigned as a support obligation and the number of absent children they are liable to support. Only in the most extreme cases would current debts and obligations or support arrangments be allowed to take precedence over this basic formula.

Naturally, the use of such a formula would result in support obligations that vary from current judicially established patterns. Many absent parents would pay more and some would pay less. In addition, some negotiated agreements whereby flat payments, in-kind payments, and/or special agreements might be obviated by such a routinized formula. As is the case with most public policy initiatives, we can only vaguely estimate who will profit and who will lose by such a change. Even more ambiguous is what type of behavior changes will take place (e.g., legal challenges, changes in divorce rates, payment avoidance behaviors, etc.). These represent important and, to date, inestimatable behavioral responses.

B. Taxing Income at the Source

Collecting child support obligations by taxing income at its source is a relatively simple concept. In practical terms it means routinely initiating income assignments* in every case where a child support obligation exists. This differs from current practice where such an action typically results from a payment delinquency (at least in those states with enabling legislation). It is also a significant step toward establishing a process through which the collection and distribution of support obligations can be effected in an efficent manner.

This latter point is not a trivial matter. It is obvious that, over time, the trend in income transfer programs has been away from individualized, discretionary program structures toward those that might be characterized as uniform and automated. In the AFDC program this trend is represented by the emergence of flat or consolidated grants as well as by the simplification of certain computations (e.g., those for work expenses). While this apparently sacrifices some degree of intercase equity, it improves the efficiency with which the program can be executed. The implicit tradeoff between equity and efficiency initially appears to be problematic but, in fact, may lack general substance. There is no compelling argument suggesting that equity is served by

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*Routine income assignment represents one approach to taxing support obligations at the source of income, but it does not, of course, exhaust available options. For example, a very attractive option would involve withholding support obligations as another form of tax, so that absent parents meet their obligatiosn rather as they meet their social security obligations. This type of approach has numerous advantages, but it is premature to seriously examine such an administrative alternative. However, any demonstration of the efficacy of routine income assignments should be viewed as a first step toward suggesting the feasibility and desirability of using the revenue collection capabilities of the Internal Revenue Service as a vehicle for securing support obligations.

allowing judicial discretion in the establishment of support obligations nor individual discretion in the method by which those obligors choose to meet that obligation.

Rather, placing the decision to pay in the hands of the obligor imposes both a burden upon that person (i.e., how to weight this debt relative to other debts) and a critical responsibility. Although the public sector has assumed some liability for the financial needs of children, the existing incentive effect for the absent parent is in the direction of avoiding payments. For one thing, conscious delinquency too often meets with a response that is tardy, ineffective, or extreme (e.g., incarceration). In any event, placing the decision to pay the support obligation with the absent parent enables that person to manipulate the responsibility to optimzie his or her own economic utility. For example, if the official response to delinquency is slow, delinquency will increase, particularly if arrearages are often overlooked or viewed as a reason for reducing the ongoing support obligation. The net effect of both the incentive bias and the procedural inadequacies is to diminish the effectiveness of the collection process. Collecting the obligation at the point when income is earned is consistent both with the view that child support is a priority debt and with any best understanding of efficient program management.

There are other perverse incentive effects in the current approach to collecting support obligations. First, any utility-maximizing custodial parent on AFDC would prefer to receive a support payment, even a partial payment "under the table," directly from the absent parent. Even though they are fraudulent payments (assuming they are not reported to the welfare agency), such transfers represent additional real income to the custodial parent. Normal transfers through official channels merely offset the public subsidy (for instance, the AFDC payment to the custodial parent). These arrangements are supported by the fact that the public burden is maximized when official procedures can be circumvented.

Second, fluctuating payments are decidedly disadvantageous to custodial parents if they are not on AFDC. In the case of periodic nonpayment, this is quite apparent. However, there have been instances where some absent parents have made advanced paymens. Such transfers disrupt normal administrative procedures and complicate fiscal accounting. They also present problems to the custodial family's financial management process since the regularity of payments cannot be counted upon. Regular payments, secured at the source of income, are distinctly preferable.

C. Providing a Guaranteed Payment to All Children Whose Parents Do Not Reside With Their Children

Another critical concept in the child support reform project is that a guaranteed minimal level of support will be provided to all children not residing with both natural (or legally liable) parents. This implies

that the public sector will supplement collections from the liable absent parent up to a pre-established minimal level of support. Since this guarantee would extend far beyond the current IV-D population, it approximates the type of child support systems that have been popular in Europe for a number of years.

Clearly, extending a guaranteed public subsidy (the potential level of which is best described in the final report of the Child Support Reform Project) will extend programmatic coverage far beyond the traditional IV-D population. Unless improvements in the collection process (as suggested above) are efficacious it is clear that a substantial fiscal unknown is encountered. In addition, we do not know what kind of administrative/behavioral response problems will result from either the guaranteeing of a nearly universal child support system and imposing a tax upon the custodial parent (and any new spouse). Such responses remain to be determined by the pilot study.

Providing such a guarantee is in the best interests of sound public policy. Children, the most vulnerable members of society and (as is often cited) the most precious national resources, must be protected from the too often capricious and self-serving behavior of their responsible parents. Still, it is not clear that this component of the reform package can be legitimately structured within the pilot project. That is, we cannot assume that Federal and/or other financial support would be forthcoming to ensure that any fiscal rush would be neutralized by actually providing such a guarantee in the pilot sites. This risk would be accentuated by the fact that the pilot would be geographically limited, thereby risking potentially serious migrational and payment-avoidance responses. However, the importance of this concept to the overall integrity of the reform package suggests that it shold be tried in at least one site if at all possible.

This proposal is not quite universal in character since a modest "tax" will be imposed on the earnings of the custodial parent. That is, any public subsidy going to custodial parents who have independent earnings (including up to 50% of the earnings of new spouses of the custodial parents if the new Wisconsin marital property law is legislated) would be taxed at a rate equal to one-half of the tax levied against the absent parent to offset any public subsidy to more affluent family units. In effect, this would avoid a situation which enables a public subsidy going to a family unit where that family unit is clearly capable of supporting a child(ren) whose liable parent is not earning a sufficient amount of income to offset the minimum guaranteed under the reformed child support reform program. This custodial parent tax (plus a tax on one half of the new spouse of the custodial parents' income) would be administered as a year-end reconciliation to offset any public sector payments made during the previous calendar year. It would be collected as a special tax (or surcharge) through the state's normal tax collection process. At periodic points throughout the year, custodial parents would be reminded of this possible fiscal responsibility so that they can arrange their economic situation in such a way as to meet this additional tax liability.

D. Automated Case Management

The fourth objective of the pilot project is to test and refine a computerized central registry capability. This form of technical support is the sine qua non for the kind of reformed program being proposed. At the basis of this support capability is a system which can perform the following types of functions:

1. Maintain family and individual (child) fiscal account systems.

2. Generate a variety of form letters to absent parents, custodial parents, employers, and appropriate government/judicial officials. These letters should perform the following general functions:

   - Notifications of rights and obligations under the reformed system.
   - Notification of benefits (changes in benefits).
   - Notification of actions which must be taken.

3. Generate exception reports to program administrative personnel regarding changes in client/case circumstances warranting action.

4. Generate periodic management reports which reflect such information such as the current (monthly) and year to date fiscal and programmatic (e.g., # cases) status of the project.

The pilot demonstration is viewed as an opportunity to develop what we anticipate will be the most sopisticated automated case management system in the country. The hardware used to support and the technical expertise developed while creating Wisconsin's Computer Reporting Network (CRN)*, will be invaluable resources available toward the creation of such an advanced system. If the reformed child support program were to be implemented on a statewide basis, this new system would substantially replace CRN as the case management system for public assistance groups that involve children.

These computations are reasonably straightforward but not simple. Public subsidies would involve, at a minimum, the accumulation of arrearages to the absent parent, would require some consideration of the custodial parents income to offset (most likely in the form of a year end reconciliation) the public expenditure, the apportioning of subsequent collections from the absent parent toward the reduction of prior

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*The Computer Reporting Network has been recognized as perhaps the most advanced automated public assistance case management system in the country.

arrearages and current obligations. Third, since the concept of a universal guarantee, backed by public subsidies, risks a larger expenditure of public funds, the collection process must be optimized. This means that continuous monitoring of the payment performance is an absolute necessity. Any individual changes in payments by the obligor which result in a public subsidy must be identified and responsed to immediately. Currently, manually operated systems often permit delinquencies to continue for several months before detection. The lack of an immediate response suggests to the obligor that systematic deficiencies in the case management system can be manipulated and exploited in ways that encourage the nonpayment of support obligations.

Improving the case management of child support cases is intrinsically related to reforming this program. That is clear. Detailed work on developing such an automated management support capacity was initiated in January of 1982 by a team of experts drawn from the Wisconsin Department of Health and Social Services, the Wisconsin Division of Economic Assistance, and the University of Wisconsin.

It may turn out that an improved case management system for the child support program may obviate the need for more drastic programmatic measures noted above. Prompt (within 10 days) and automatic notice to the obligor that he/she is delinquent in their payments may prove effective as a way of enhancing support collections. This approach, used widely by credit card companies has proven successful in other areas of financial transactions. If so, it might negate the need for such dramatic programmatic changes such as utilizing automatic wage withholding (read as the "taxation at the source of income" concept). This remains an empirical question to be determined during the course of the pilot.

IV. WHY A DEMONSTRATION

The above cited concepts appear reasonable and appropriate. However, they are not universally accepted. Some issues are attitudinal in character, others organizational, and still others fiscal. For example, previous experience in setting standards for establishing support obligations has generated judicial resistance. State established standards in Wisconsin, New York, and other states have been widely ignored. Many judges and other court officials, it would appear, prefer to exercise case level discretion in making such determinations rather than relying upon a prescribed formula. The attitudes of employers and obligors are not trivial either. Their probable acceptance of the procedural and administrative features of an automatic wage assignment approach to collecting support obligations cannot be assumed. Furthermore, there are important potential organizational and fiscal ramifications involved in the reform package. Resources will have to be developed, retrained, and/or reassigned. New organizational arrangements and administrative procedures will have to be conceptualized and implemented. Such develop-

mental efforts are never accomplished without flaw. And finally, these are fiscal concerns. The bottom line of the reform is that the innovations will better meet the needs of children without increasing aggregate public costs (i.e., public program expenditures plus administrative overhead). While the final report of the child support reform project provides some estimates of costs that are favorable, but only a real world test of the reform package can provide the kind of numbers essential to sound public policy formation.

Given these considerations, the pilot will focus on assessing the following:

- Determining the behavioral responses of a variety of actors/actresses involved in the new system. This includes judges, obligors, custodial parents. Resources will dictate the actual extent to which measuring this concept will be possible. Generally speaking, however, this evaluative component will examine perceptions of the equity, adequacy, and efficiency under the reformed child support system. The reformed system will not work if people "behave" that it is not an appropriate alternative to current arrangements.

- Determining the optimal structural and procedural components of the reformed system. There are two important questions here. First what works and secondly what works in a more cost efficient manner. A number of specific administrative innovations must be tested in a real world context. Only in this fashion can the relative efficacy of various reform options be assessed.

- Finally, what will be the fiscal impact of the new reform. This involves several questions. How will the "taxation at source of income" improve collections relative to a more efficient case monitoring process? Can collections be improved sufficiently to offset a universal guarantee of a minimal support level. Would administrative costs under the reformed system seriously erode the overall cost efficiency of the new program?

The unknown with respect to the reform program involve public acceptance, programmatic feasibility, and fiscal acceptability. Only by testing the various components of the reformed package will we be able to estimate the extent to which the reform package might be implemented on a broader scale (i.e., state-wide, in selected states that have already shown interest, or nationally). This proposal is a classic example of a prototypical field test of several innovative concepts. As will be discussed in the methodological section, how far we can go in assessing the disaggregated effects of distinct reform options will depend upon the resources available.

Methodological Considerations

The Wisconsin Child Support Reform pilot project will examine the four concepts described above on a limited basis. The general intent of the pilot is to: (1) assess the relative efficacy of each concept, (2) identify any unanticipated costs; (3) develop strategies and approaches for implementing the reform concepts on a broader scale; and (4) resolve problematic aspects of the reform package. The pilot is not viewed as a formal evaluation of the reform program but rather as a field test of the basic concepts underlying the reform package. Consequently, this section is less a discussion of methodological requirements and more of a treatment of selected issues involved in implementing the field test.

A. The General Approach

The two basic unknowns governing the child support reform project are: (1) what combination of programmatic interventions will result in the optimal performance of such a system; and (2) what level of resources will be available to carry out such a product. Consequently, the methodological and practical aspects of this proposal have been developed on a conditional basis. That is, several combinations of reform have been developed dependent upon the availability of resources and the cooperation of local government units.

Resources permitting, as many as 10--experimental sites (counties) will be selected. The process of choosing the sites will be carried out in two steps. First, a list of preferred sites will be established on the basis of pre-established criteria. Among the selection criteria would be the following county characteristics: population, unemployment rates, type of employment structure, proximity to Madison, current performance of the child support collection process quality of relevant staff. Generally speaking the intent is to develop a list of candidate sites that represent a good mix of local situations which will simulate the varied contexts in which the reformed program will be expected to operate (e.g., urban-rural, high unemployment-low unemployment, etc.). Second, on a prioritized basis officials in each county selected above will be contacted to solicit their cooperation. The officials to be contacted would include judges who handle family law cases, the family court commissioners, the clerk of courts, law enforcement officials, the head of the IV-D agency, and the chief county executive officer. The process of contacting officials, explaining the program and soliciting cooperation would continue until an adequate number of sites were secured. [Note: clearly, this is not a random sample.] However, securing cooperation from local officials is viewed as more important than any methodological concern.

Consistent with the above cited assumption that interventions will be introduced into available sites on a priority basis.

- In the first available site, all key dimensions of the reform package will be introduced. This would include: (1) the use of normative standards (NS) in establishing obligations, (2) the introduction of a universal minimum guarantee (MG)*, (3) the collection of obligations through the use of automatic wage assignemtns (AWA), and (4) the development of an automated case management system that would serve as a control registry (CR). The intent of this set of interventions is to fully simulate the primary attributes of the reform package.

- In the second available site, only interventions number one (NS) and four (CR), as cited above, will be introduced. The intent is to selectively examine two key concepts of the reform package; i.e., improving the establishment of obligations through the use of normative standards and collecting such obligations through an improved case management process (CR). No universal guarantee (MG) or "taxation at the source of income" (AWA) concept would be used here. This combination of interventions may prove sufficient to adequately improve the child support process at least in terms of reducing public sector expenditures.

- In the third available site, only the automatic wage assignment (AWA), will be introduced. This methodological variant is based upon the premise that collections is the most initial inadequacy of the current system. This intervention clearly avoids dealing with important issues such as problems associated with establishing support obligations, guaranteeing a minimal level of support to children, and with improving the general case management of child support operations. However, it does address one singular problem undermining the performance of the current system, namely that of optimizing collections within the extant programmatic framework.

- In site four, only administrative improvements will be made. This would include the development of an automated case management system, of a central registry, and of an expedient notice system for delinquent obligors. This motive would state that unless arrearages were satisfied within 10 days a wage assignment would be initiated. The intent here is to explore whether or not strictly administrative changes will be sufficient to adequately improve the performance of the current system (e.g., enhance collections and meet the minimal economic needs of all eligible children) without resorting to more dramatic programmatic changes. That is, extant regulatory and structural aspects of the child

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*This intervention includes the introduction of a modest tax on custodial parent income to offset the public subsidy.

support system would remain intact. [Note: as in all experimental sites, the distinction between title IV-D and non-IV-D cases would be erased.]

- In the fifth site, only the normative standards procedure (including the use of quasi-judicial procedures) of the Wisconsin Child Support Reform Project would be introduced (see final report for details). This intervention has been considered as important based upon the analysis done by Sorenson and McDonald ( ) which suggests that efficiently establishing a support obligation is the most important factor for improving the overall system. If this hypothesis were correct, it would prove to be the least costly approach to systems reform, if judicial personnel were willing to accept such a substitution of their historical prerogatives.

The above cited combinations of interventions are being introduced on what we consider a priority basis. However, it is uncertain that a sufficient number of suitable experimental sites can be found. It would also be desirable to test each set (or individual) intervention in more than one site. The use of two sites would minimize (though not eliminate) the possibility that idiosyncratic factors (e.g., the governmental units attitudinal and/or economic situation) and/or unanticipated historical events (e.g., replacement of key actors/actresses) would not unduly undermine the efficacy of any subsequent comparative analyses. To ensure that at least two sites are available for each pilot, a total of ten cooperative governmental units must be secured. Since this cannot be assured at this time, it may be necessary to modeify the basic design by eliminating some interventions in order to ensure that the priority concepts are adequately piloted and tested. Our general consensus is that the first three priorities should be tested in more than one site before examining subsequent priorities. This issue, however, remains under consideration. We remain willing to negotiate with potential sponsors on this important question.

B. Outcome Measures

Since this is largely a pilot proposal, since the level of available resources are not known, and since neither the number of experimental sites (read as allowable programmatic interventions) is not known at this time, a specific consideration of detailed criterion variables is not feasible. However, it is possible to outline the general concerns related to evaluating the pilot project.

First, we want to focus upon identifying the problems and issues that can be identified during the implementation of various intervention options. This will largely be a set of interpretive judgments by those implementing the pilot in the fashion of a formative type analysis. For example:

- Does a particular piece of computer software "work" in terms of program and administrative requirements?

- Do administrative systems appear compatible within the constraints of organizational structures?

- Are organizational personnel able and willing to perform newly allocated tasks?

- Are communication and interorganizational linkages capable of supporting an optimally functioning program?

Such questions are not summative in nature. Rather, they are issues that are continuously addressed as part of the reform developmental process and are particularly relevant to interventions that involve more than one concept.

Second, there are a set of more quantitative outcome measures that are of interest to this pilot project. Among these are included:

- Collections--This outcome measure will be measured in several ways.

  --Total collections.
  --Collections relative to the ability to pay of absent parents.
  --Collections relative to the needs of eligible children.

- Costs--This outcome measure will also be measured in several ways.

  --Aggregate costs that include both program and administrative expenditures.
  --Public sector program expenditures only.
  --Administrative expenditures only.
  --Selected administrative costs (e.g., automated case management costs relative to manual systems).
  --Other relative cost measures such as per case costs and costs relative to collections (i.e., cost/benefit analysis).

- Attitudinal Outcomes--These outcome measures generally focus upon how those involved in the various interventions perceive the reform proposals. [Note: the extent to which these outcome measures can be pursued will depend upon available resources.] Specific measures would include the following.

--Reactions and perceptions of obligors under various intervention conditions as measured by behavioral and personally described indices.
--Reactions and perceptions of custodial parents under various intervention conditions.
--Reactions and perceptions of employers in those conditions where an automated wage assignment procedure is used.
--Reactions and perceptions of those governmental officials involved in administering the program under various intervention conditions.

C. Analytic Considerations

The general caveates cited above at the beginning of the section on general methodological approach also apply here. This is a pilot or exploratory project that does not warrant an explicit a priori specification of analytic techniques. Still, some general comments are in order.

The focus of the analysis will be upon what works. This analysis will use comparative data (1) among the various intervention sites and (2) between the various intervention sites and selected counties from nonintervention sites that approximate the general demographic and economic attributes of the intervention sites. That is, both an intraexperimental analysis (i.e., among various intervention sites) and interexperimental analysis (i.e., between intervention sites and selected control sites) will be conducted. This will enable us to compare outcome measures (see above for a general discussion) both among sites testing various interventions and between those sites and selected control governmental units. Ultimately we want to determine which set of interventions are relatively more efficacious and to determine whether or not selected interventions are comparably efficacious relative to the current approach.

Several analytic tools will be used including both process and quantitative type analyses (both of which are readily accessible to the experts at the Institute). The sophistication of the analysis and the number of interventions will, of course, depend upon the availability of supportive resources. Two basic questions are of importance.

- Measurement--Most of the important variables will be ascertained as part of the normal collection process for collecting child support related data. Data on collections, caseload, demographics that are readily available to Wisconsin officials will be uti-

lized. In addition (and as resources permit), questionnaires and interviews will be utilized to obtain additional data (particularly from the key actors and actresses involved in various reform contexts).

- Process--As a quasi-experimental pilot project this initiative is partially predicted upon the notion that much of the analysis will be process in character. That is, the focus will be on problem solving activities during the period of actual program design and implementation. This will necessitate a continuous interaction between local governmental/administrative staff and state-project officials. Periodic meetings between these two groups will be held and summary documents outlining parenting problems and proposed solutions will be prepared.

- Quantitative--It is difficult to discuss in detail the quantitative analytic techniques which will be employed in this effort. However, it should be stressed that the Institute for Research on Poverty is at the forefront in both developing and utilizing the latest quantitative techniques in both basic research and applied program evaluation. For example, the Institute has been intimately involved in a number of seminal applied research projects including the New Jersey Negative Income Tax studies and the National Supported Work studies. As the pilot project assumes more definition, the specific quantitative techniques that will be employed will be specified.

Specifics of the Pilot

It is expected that planning for the pilot project will begin in February of 1982 and that the actual implementation of the pilot will be initiated in September and October of the same year. Further details regarding the timeline are provided in the attached section describing the work plan and the GANNT chart illustrating the timeframe within which the project will be planned and implemented.

The population covered by the pilot will include all cases in which a new support obligation is established or revised after the implementation date of the pilot in the selected sites. The applicable interventions would apply to all cases and not those subject to traditional IV-D jurisdiction. That is, all children not living with both liable parents where the support obligation is established or revised subsequent to the start up date for the pilot would be included in the pilot project.

Resources permitting, the pilot would run for a minimal period of one year. Resources to plan the specifics of the pilot project are already available through the Wisconsin Child Support Reform Project. However, additional support is required to actually conduct the pilot demonstration.

Work Plan

The work plan of this pilot/demonstration is organized into six sections: (1) project funding/final design; (2) site selection; (3) legislation/waiver initiatives; (4) automated case management system development; (5) systems design; and (6) pilot/demonstration implementation. These six initiatives can be defined as follows:

(1) Project funding/final design--focuses upon securing support funds upon which the final design (i.e., number of sites and number of experimental interventions) will be determined.

(2) Site selection--focuses upon the selection of sites and the securing of agreements with appropriate officials.

(3) Legislative/waiver initiatives--focuses upon the securing of necessary state legislative authority and necessary federal waivers.

(4) Automated case management system development--focuses upon the steps necessary to develop an automated case level program support capacity.

(5) Systems design--focuses upon those tasks essential to the final design of the procedural and structural aspects of each reform option including forms, personnel allocations, functional responsibilitiees, and communication pattern.

(6) Project implementation--focuses upon those tasks which that are associated with the actual implementation and consummation of the pilot/demonstration project.

In the following sections, a tentative schematic will be presented followed by a brief description of each task item. The timeline depicted in the schematic is very conditional. While basic temporal relationships among various tasks are depicted, the overall time frame for getting this type of pilot/demonstration off the ground may be too ambitious.

Description of Project Tasks

The following represents a monthly description of essential project tasks.

Feb. Finish proposal--finalize the proposal for conducting the demonstration.

Overview paper--prepare a brief summary of the projects intentions and approaches.

Project sponsors--identify those funding sources that might support such a project.

General letter--prepare a general letter to local IV-D and other officials explaining the project. This should be based upon the overview paper.

Review needs--a full assessment of legislative changes and federal waivers should be carried out.

Initiate case management process--the second interim report plus the demonstration proposal should be submitted to the Office of Information Systems and other officials.

March

Review feedback--responses from local agencies regarding their willingness in participating in the project should be assessed.

Priority sites--those potentially supportive sites are reviewed in terms of their desirability as experimental/pilot sites.

Contact sites--contact with available and desirable sites will be made to ascertain their commitment to the pilot project.

Contact sponsors--potential funding organizations will receive: (1) the overview paper; (2) the project demo paper; and (3) the second interim report.

Legislative agenda--develop the language of those regulatory changes necessary at the state level to implement the pilot project.

Federal waivers--develop the language regarding the necessary federal waivers essential to the implementation of the pilot project.

Case management review--conduct a general management review of the automated case specific requirements of the pilot project.

Data elements--In cooperation with appropriate state officials, identify the data elements essential to the conduct of the pilot project.

Administrative requirements--Review all material regarding administrative requirements to determine what is essential to implementing the pilot project.

April Assess funding options--contact funding sources to determine which are likely to support this endeavor and assess the degree of support.

Identify sites--largely determined by contact with potential sites, determine those sites that will be included in the pilot project (based upon their willingness to participate and their conformance with pre-established criteria).

Forms design--based upon the identification of necessary data elements, develop a draft of forms essential to the pilot project.

Updated project--based upon initial feedback from potential funding sources, determine the desired (optimal) pilot design.

Legislative/
waiver work--based upon initial contact with state and federal officials, determine the possibility of securing the necessary governmental participation in the pilot project.

Computational
requirements--specify those computational requirements necessary to automate the child support system.

Manual development--compose the basic instructional material (i.e., manuals) necessary for the implementation of the pilot project.

May Software development--develop the computer programs necessary to the implementation of the pilot project essential to the effort to formulation automated case management system. (This task may extend for several months.)

Review of instruc-
tional material--based upon the above review, the instructional material will be revised. (This task may take two months to complete.)

Software specifications--development of the software package for the automated case management system. (This task probably would take a minimum of three months.)

June Funding finalize--(if possible) agreements regarding additional support funds.

Finalize legislation/ waivers--review progress on securing essential waivers and legislation. (If possible, finalize.)

Final project plans--based upon the results of the preceding two items, finalize project plans.

Test instructional material--modify (according to the final project plan) and pretest instructional material).

Computer hardware--review hardware needs for the automated case management system.

July Posttest review of instructional material--review and revise instructional material for each experimental site.

Draft of manuals--prepare the first draft of manual material.

Aug. Manual review--review manual material with officials from experimental sites.

Finalize training package--develop final training materials that will be used for instructing local personnel in experimental sites.

Test computer programs--test the software programs designed to support the automated case management system.

Sept. Debut software programs--based upon above cited tests, finalize the software package.

Train staff--train local staff on how to conduct the reformed program according to the specifications of each experimental condition.

Oct. Implement the project.

	FEBRUARY	MARCH	APRIL	MAY	JUNE
A. Funding/ Final Design	Finish proposal; prepare overview paper; identify project sponsors (potential)	Contact sponsors	Assess funding options; final project design		Finalize funding agreements; reverse project scope (if necessary)
B. Site Selection	Prepare general letter	Review feedback; prioritize sites; contact sites	Identify sites		
C. Legislation/ Waivers	Review legislative needs	Develop legislative agenda; develop federal waivers	Determine legislative feasibility		Review progress on legislation/waivers
D. Case Management	Initiate case management development process	Case management needs review; administrative requirements review	Specify computational requirements	Initiate software development	Review computer hardware needs
E. Project Systems Design			Initial forms design; draft of instructional material	Review instructional material; initiate revision of instruc. material	Test instructional material
F. Project Implementation					

	JULY	AUGUST	SEPTEMBER	OCTOBER	
A. Funding/ Final Design					
B. Site Selection					
C. Legislation/ Waivers					
D. Case Management		Test computer package	Revise programs; secure hardware		
E. Project Systems Design	Revision of instructional material; prepare manuals/ training	Develop final instructional package			
F. Project Implementation		Final review of instructional material with local officials	Train staff; introduce new forms/ procedures	Implement program	

ISSUE: In Order for a Child to be Eligible for a Child Support Benefit, Must the Child Have an Absent Parent Who is Living and Legally Liable for Paying Child Support?

OPTIONS:
1. The absent parent does not have to be living nor legally liable for paying child support.
2. The absent parent has to be living but only potentially liable for paying child support.
3. The absent parent has to be living and legally liable for paying child support.

PRESUMPTION: Option 3.

RATIONALE:

Option 1 would include children whose absent parent is dead and who are already covered by Survivor's Insurance. The argument against that option is that we are proposing a child support program which will collect money from an absent parent and distribute that money to his/her child.

Option 2 would include children of unmarried parents where paternity has not been established. The argument against Option 2 is how would we prove that there is only a potentially liable living absent parent? That would be difficult if not impossible in many cases. If the father is not identified how do we know he is alive?

If we choose Option 3, in principle we would only be giving money to children for whom there existed an absent parent from whom to collect the money. The child support benefit would indeed be a tax and not another form of welfare. Nor would our program become another form of Survivors Insurance. We already have a means to care for children with parents who are dead. Our program would be more appealing to the majority of the public and its likelihood of success in the legislature and in daily operations would be increased. No stigma would be attached to our program as a give-away venture.

Option 3 would make our child support program easier to administer. The absent parent would be identified. We would be collecting money from the person responsible for parenting the child receiving child support benefits. If the absent parent did not earn enough money to pay for all his/her child's benefit, General Revenue would supplement the benefit, but a supplement to a tax is an easier procedure to handle, both administratively and ethically.

And, by using the courts as entry into our program, we simplify and standardize intake. The courts notify the absent parent's employer, General Revenue (who will tax) and DHSS (who will disburse). The courts are involved as a matter of course in cases of divorce and paternity adjudication, where a great number of child support awards are already made.

COUNTERARGUMENTS:

If we choose Option 3, the custodial parents who would not qualify for our program because there was no living legally liable absent parent would tend to be mothers who had never married and could not or would not identify the absent father. In other words, the people who fit the worst stereotypes would remain in AFDC. This would increase the already powerful stigma of AFDC.

The children of those custodial parents with no living, legally liable absent parent will be denied any benefit. This opposes the principle of universal coverage, that all children with an absent parent are entitled to child support.

Option 3 is unfair to those mothers who can't identify the father(s) of their child(ren) and it may put some unmarried women in the physically dangerous and psychologically exhausting position of being threatened by the absent father to <u>not</u> cooperate in identifying him. If a custodial parent were automatically eligible for child support when the other parent absented him/herself from the home, the absent parent would have no coercive power to interfere with the child(ren)'s benefits.

If there is a long delay in adjudicating paternity, what will happen to those mothers? Will they enter the AFDC program? Do we want them to enter AFDC first or the child support program first? If they enter child support first, and there is a long lag in adjudicating paternity, we may have to pay child support benefits until paternity is adjudicated, and our trust fund for child support will be in the red.

RESPONSE TO COUNTERARGUMENTS:

Requiring that there be a living, legally liable absent parent obviates the need for us to require the cooperation of the mother in determining paternity. If she wants the child support benefit, it will be in her interest to cooperate. Those mothers who don't cooperate will not receive child support benefits, but they don't receive the AFDC

custodial benefit under the current system unless they cooperate. If a mother cannot identify the father, she would receive the AFDC custodial benefit, but not the child support benefit. No custodial parent would be made worse off. There may be some cases where the mother cannot identify the father (so she can't get the child support benefit), and she makes too much money to qualify for AFDC, but she's not worse off under our program than the current system, and I suspect (hope) those cases are few.

We will greatly reduce the role of the courts under our proposed system, because the courts will be involved only in determining the duty to support and will not be involved in collections. The courts will be involved in setting amounts only in cases where a supplement is being sought.

The current lag in determining paternity is 90 days following the birth of a child (if the father admits parentage) up to a year or more if parentage is litigated. The new paternity law, which goes into effect July 1, 1981, will decriminalize the paternity action, and private attorneys will be able to represent mothers in those actions. After awhile, mothers may use the courts on their own, start the paternity action before the birth of the child, and therefore avoid AFDC.

If a custodial parent is separated, has been deserted or for some other reason does not become involved with the courts and she applies for AFDC, AFDC will send her to our child support program. In fact, she may qualify for our program and not qualify for AFDC (if the absent parent eventually becomes adjudicated as liable, he makes his payments, he's a high earner, the benefits are high, and she makes too much money at her job to qualify for AFDC), so she will be better off. AFDC could serve as a transition between loss of the absent parent and entry into our program. And the courts could serve as our outreach program.

CONCLUSION:

In order for a child to be eligible for a child support benefit, the child must have an absent parent who is living and legally liable (or legally determined) for paying child support.

ISSUE: Should Eligibility be Income Tested?

PRESUMPTION: Eligibility for new child support program should not be income tested.

RATIONALE:

If income is made a condition of eligibility, the program will not be very different from AFDC.

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 male heads of families. 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.

The Aid to Families with Dependent Children Program also stigmatizes beneficiaries. There is evidence that many beneficiaries accept the negative characterizations of welfare recipients by others and therefore feel less worthwhile. 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 and therefore income tested, a non-income tested program will be cheaper to administer. Such is the case with the income tax. It has been estimated that a federal negative income tax which paid benefits to only low income people combined with our current federal income tax which deals with people of all incomes would cost about $2 billion more to administer than a credit income tax which would both pay benefits to and collect taxes from everyone in the population in a unified non-income tested program. A non-income tested approach appears to have the same administrative cost savings potential 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) it is likely that it will be cheaper to administer than the combined AFDC, IV-D and court judicial system that now serves rich and poor in different systems.

The administrative cost savings of having a single, unified, and therefore non-income tested system 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 with-

holding 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 bifurated system, a non-income tested program will not only be cheaper to administer, but collect more as well.

COUNTERARGUMENTS:

The arguments for income testing involve both philosophical and cost considerations. Society's interest in assuring support for children diminishes as the income of the family they live in increases. Closely related is the fact that income testing assures that benefits have some relation to need. On the cost side, a non-income tested program would increase costs or general revenue financing in at least two ways. First, those children currently on AFDC whose mothers work would not have their benefit reduced. Second, some children not now on AFDC whose absent parents have low incomes would be eligible for the minimum child support benefits. These additional costs may exceed the administrative savings and larger collections which result from the greater efficiency of a non-income tested approach.

RESPONSE TO COUNTERARGUMENT:

While it is true that society's interest in assuring support for children diminishes as the income of the family they live in increases, it is not true that there is a social interest in only those children who live in poor families. The state is already involved in enforcing support for all children. While the involvement of the federal and state governments in child support enforcement has increased in recent years, state and local government have been heavily involved in the child support area from the outset. And appropriately so. When someone parents

a child they incur an obligation to contribute to the support of that child. Governments are responsible for enforcing this obligation.

It obviously is true that a non-income tested program will pay benefits to children who would be ineligible under an income tested program. In some of these cases, the absent parent's income will be insufficient to pay for the minimum. This will increase the public subsidy and increase costs. This problem arises frequently in the twelve percent of cases where the custodial parent is the father and the absent parent is the mother.

Whether the extra costs of having a non-income tested program in terms of eligibility leads to an increase in general revenue financing, however, depends upon the combination of benefit levels and tax rates that are chosen for the program as well as the improved collections and administrative savings of a non-income tested program. It is possible to choose combinations of benefit levels and tax rates which lead to either increases or decreases in costs.

Indeed one of the advantages of contemplating a non-income tested approach is that it makes explicit the tradeoffs that are involved between (1) keeping tax rates on both absent and custodial parents reasonably low, (2) making benefits to children decently high and (3) keeping costs to the general public reasonably low.

For example, suppose for the moment that we concluded the custodial parent should help finance the public child support benefit by paying a special surtax on her income like the absent parent. How high should that surtax be? Suppose further that we conclude that the appropriate surtax rates on the income of the absent parent are 20% for the first

child, 10% for the second child and half the previous rate for each successive child. It is difficult to think of a convincing justification for charging the custodial parent higher surtax rates. Yet, this is precisely what the existing AFDC system, with its 40% tax rate on earnings (and 100% tax rate on unearned income) does.

ISSUE: Should Child Support Benefits Depend Upon the Child and Parents' Residence Status?

OPTIONS:
1. extend benefits only to children who reside in Wisconsin and who have at least one absent parent residing in Wisconsin
2. extend benefits only to children who live in Wisconsin but whose parents live anywhere
3. extend benefits to children in Wisconsin or another state but whose absent parents live in Wisconsin.

PRESUMPTION: Option 2.

RATIONALE: The state should accept responsibility for the economic welfare of all persons who dwell within its borders, and one of the basic purposes of the Wisconsin Child Support System (WCSS) is to provide an income floor under all children in the state via the mechanism of facilitating intra-family transfers.

Ours is a state program and legal tradition gives us no administrative right to determine that a child living elsewhere has a claim on the resources of our state or the individual parent residing in Wisconsin. Other states' laws govern the mechanisms and procedures whereby a child living within its borders might lay claim to the resources of his/her parents residing elsewhere. Even if the absent parent is a Wisconsin resident and volunteers to be taxed for the purpose of meeting his/her child support obligation elsewhere, we should not collect and disperse these monies because this might put us in a position of potential conflict with support orders from other jurisdictions. It is more appropriate for us to leave these particular cases to the discretion of the courts.

However, we can extend benefits to children living in Wisconsin, where we have jurisdiction, no matter where their parents reside. If the parent lives in the state, we have the authority to tax the parent for his/her child's welfare. If the parent lives outside the state, we have the right to collect through URESA just as the state does presently.

COUNTERARGUMENTS:

If the absent parents residing in Wisconsin are exempt from our child support tax if their children live in another state, we are promoting inequitable treatment of absent parent taxpayers in Wisconsin. We will be taxing one class of parents and not another based solely upon where his/her children reside.

RESPONSE TO COUNTERARGUMENTS:

Our program is for children and their economic welfare. Our main emphasis therefore is on the children living in Wisconsin and collecting payments from absent parents for the support of their children.

ISSUE: Should the Citizenship of the Child Affect Eligibility for Guaranteed Child Support Benefits?

OPTIONS: 1. A child must be a legal resident.

2. A child must be a citizen.

3. Neither citizenship nor legal residency status are conditions for a child's eligibility.

PRESUMPTION: Option 1.

RATIONALE:

This requirement is consistent with income maintenance program laws in general. With borders between our country and Canada and Mexico being so lengthy as to be virtually unpatrollable, the enforcement of immigration laws is very poor. To provide WCSS benefits other than the child support collected for the children who are not legal residents could provide an economic incentive for illegal immigration. Also, including non-legal residents in the eligible group might reduce the political attractiveness of the program regardless of the actual incentives for in-migration.

COUNTERARGUMENT:

We would not want to create a dual system of economic justice for the children who have already immigrated illegally. This was the basis for the recent Supreme Court ruling regarding the obligation of the City of Houston to provide free public education for the children of illegal aliens.

RESPONSE TO COUNTERARGUMENT:

Option 1 is sonsistent with present income maintenance laws. Option 3 probably would foster illegal immigration for a group of individuals for whom collection of the child support tax is very unlikely. We want our program to avoid the stigma of a welfare program and we don't want to cripple the general revenue fund that would provide the minimum benefit to children whose absent parents were not paying support. Option 2 excludes a group of residents who have every legal right to be in this country and is therefore unfair.

ISSUE: Should the Citizenship of the Parents Affect the Child's Eligibility for Child Support Benefits?

OPTIONS: 1. The absent parent should be a U.S. citizen or legal resident

2. Neither citizenship nor legal residency of the absent parent are conditions for a child's eligibility.

PRESUMPTION: Option 2.

RATIONALE:

As long as there is a living legally liable absent parent, it doesn't matter whether that parent is a citizen or not as we have the legal means for collecting support from non-citizens as long as their children fall within our jurisdiction.

All children residing in the state should receive benefits from our program regardless of the citizenship of their parents. It is the children who are the beneficiaries in our reform program, and no child should be denied a minimum standard of living because the absent parent's citizenship allows him to avoid supporting his child.

COUNTERARGUMENTS:

Collecting child support from absent parents who are not U.S. citizens or legal residents may be difficult. They may be in this country illegally and trying to avoid detection for fear of deportation. Or, they may be in another country entirely. To collect from a non-resident and non-citizen would require legal action, as we have no authority to levy a state tax against these absent parents.

RESPONSE TO COUNTERARGUMENTS:

We will be incorporating the present IV-D system into the reformed child support program, and this will give us experienced personnel and authority to collect child support from absent parents who may be difficult to locate.

ISSUE: Should the Child's Eligibility for Child Support Depend Upon Age and School Attendance?

OPTIONS:

1. Eligibility stops at age 18 unless the child is attending high high school, and then it stops at age 19.

2. Eligibility stops when a child graduates or leaves high school, no matter his/her age.

3. Eligibility continues up to age 22 if the child is in college or vocational school.

PRESUMPTION: Option 1.

RATIONALE:

Option 1 is most consistent with the law on minority/majority status and is simpler to administer. It would reduce many of the administrative headaches related to decisions regarding what constitutes legitimate pursuit of educational and vocational goals.

This eligibility rule also is most consistent with current practice regarding court-awarded child support. There is case law supporting the notion that a parent's duty to support terminates with attainment of the age of majority (18) and that the courts have no right to order support beyond that point regardless of school attendance status. (The exceptions to this are found in cases where the child has special needs due to severe handicap.

COUNTERARGUMENT:

AFDC and Social Security both permit supplemental payments to children over age 18. Why should the WCSS make an exception to these precedents? By providing child support to children up to the age 22 if they are in college or vocational school, our program could encourage children of absent parents to pursue higher education and would contribute to a social good.

RESPONSE TO COUNTERARGUMENT:

Allowing children to receive child support while in college or vocational school may receive too much political opposition from those who do not want the public to support children whose absent parents are contributing very little or nothing to their welfare. Absent parents may not be willing to be taxed for their children's support until the children turn 22. We would be treating children of split families differently than children of intact families. All children of intact families are not guaranteed support from their parents while obtaining higher education.

Our concern has been for the welfare of children, and "children" is defined legally as ending once a child has turned 18. Child support is intended for unemancipated children.

ISSUE: Should Child Support Benefits Depend on Whether the Child Lives with a Parent?

OPTIONS: 1. To extend benefits only to children who live with a parent.

2. To extend benefits to children who reside with non-parent relatives and non-relatives in private homes, and to children who live in group homes, "halfway houses," and institutions.

PRESUMPTION: Option 2.

BACKGROUND:

If the child lives in a private home, s/he must live with at least one adult who has legal or presumed custody or guardianship of the child. Grandparents, aunts, uncles, and near-relatives are among those who may qualify as guardians for the purpose of being delegated payee on behalf of the child, but should be required to furnish proof of blood relationship to the child in the absence of a court order granting legal relationship. Foster parents, by virtue of their legal relationship to the State of Wisconsin can be delegated as payees on behalf of a child, although guardianship rests with the state.

A child should be eligible for the WCSS payments if s/he is a full-time resident of a public or private institution which has been approved by the Wisconsin Department of Health and Social Services. These should include correctional facilities, half-way houses, mental health treatment facilities, etc.

In the event that residences are maintained by more than one person for a given child (joint custody, shared custody, split custody), a child's eligibility for WCSS should not be affected, though program regulations regarding designation or the payee may differ from those for a child with a single permanent residence.

RATIONALE:

Any relative or non-relative who provides a home for a child should expect to receive economic support from the natural or adoptive parents of that child. In the absence of a dispute over legal guardianship, there is no reason why an informal decision by the family to allow a child to be raised by a relative other than his/her parents need be formalized by a court order for the purpose of eligibility for child support benefits. On the other hand, if non-relatives apply for payments on behalf of a child in their care, the state has a responsibility for making a determination that this arrangement is in the child's best interest. If such a determination is made, a legal finding regarding responsibility for the child's welfare prior to eligibility for WCSS payments would contribute to the stability and continuity of the child's environment.

As the overall social goal of the WCSS is to increase parental responsibility for children and reduce the extent to which the public subsidizes them, this would seem to apply to children who are cared for in institutions as well as private homes. In fact, one can ask why handicapped children should, by virtue of their handicap alone, exempt their parents from the responsibility of caring for them to the best of their abilities. If there is no such basis for excluding parents from contributing to the program, then the handicap should not, by itself, preclude the child from recipient status.

In most cases, institutional care is far costlier than providing a home for a child with no special needs. If contributions are geared to a proportion of the

parent's income up to a maximum set at actual costs of care, no matter what the living arrangements of the child, some of the inequity between the public subsidy for institutionalized and non-institutionalized children will be reduced.

COUNTERARGUMENT:

Arrangements for paying the non-parents are administratively cumbersome and problematic. For example, if there are two absent parents, they both must pay support. Are the benefits then doubled or are the payments halved? Further, monitoring of informal physical custody arrangements is costly and time consuming. And lastly, the parents with legal custody historically have been considered to be fully liable for their child's necessities. Therefore extending child support payment benefits to a non-custodial person has the effect of limiting the custodial parent's liability for the cost of those necessities.

RESPONSE TO COUNTERARGUMENT:

One possible solution to this dilemma would be to limit benefits to legal custodians, with a pass through provision for the caretaker. The legal custodians who have transferred their custody to foster care or institutions could use the WCSS payments to offset his/her private share of those caretaker costs. This would give legal custodial parents equitable treatment vis-a-vis other parents whose children reside with them. In cases where guardianship rests with the state (non-voluntary institutional care) our administrative regulations may call for different disposition of collections in order to maximize the offset of public support for these children.

ISSUE: Should an Otherwise Eligible Child Continue to Receive Benefits if She/He Parents a Child?

OPTIONS: 1. Terminate benefits if a child becomes a parent.

2. Provide benefits to minor parents who remain unemancipated.

3. Provide benefits to minor parents whether they are emancipated or not.

PRESUMPTION: Option 2.

RATIONALE:

Our decision on this issue should reflect state law as to whether giving birth emancipates a child. Since it does not, in and of itself, we must continue to regard the adult with whom the minor parent lives as the guardian and payee designate. And we must continue to pay the guardian child support for the minor parent in his/her household.

Emancipation occurs either at age 18 or when a child establishes his/her own household. The child support benefits should terminate only when a child becomes emancipated. Child support is for dependent children with absent parents.

COUNTERARGUMENT:

Equal protection demands that all eligible children receive the same kind of benefit, so there is no legal counterargument to the presumption that a minor parent's child receive child support. The only questions are: (1) who is the child support paid to and (2) how much? If we agree that the child support benefits for the minor parent's child should go to his/her guardian rather than to the minor parent her/himself, that decision causes complications only in the cases where the minor parent is receiving child support benefits from an absent parent. A household would then be receiving a benefit for the minor parent and a benefit for the minor parent's child. The minor parent's guardian would be custodial parent to his/her child and to his/her grandchild. Are both the child and grandchild counted as first children in determining the benefit level? Or is the grandchild counted as a second child? It is the same problem we have with custodial parents who have children with different absent parents.

For example, if a custodial parent has three children, and each child has a different father, do we count each of those three children as "first" children? Or do we count them as first, second and third? Suppose these are not "first" children in the fathers' parental history.

RESPONSE TO COUNTERARGUMENT:

For ease of administration and in the interest of fairness, we prefer to count children in the care of a custodial parent according to the family unit they live in. If a child is the second child in his custodial parent's household, then s/he is counted as a second child, regardless of the place s/he occupies in his/her absent parent's history. The benefit level was calculated with cost

estimates based on the family unit a child is living in. If it costs less to raise a second child than a first because of the sharing of resources between them, then we should let that presumption of shared goods determine the benefit level.

So, if a minor parent is receiving child support from an absent parent and then parents a child of his/her own, the minor parent's child would be eligible for child support from the absent parent. The benefit level amount would be determined by that new child's birth order in the family unit s/he lives with.

ISSUE: Should Joint Custody Cases Be Excluded From the Child Support System?

OPTIONS:
1. Exclude Them
2. Include Them and Ignore Joint Custody
3. Include them and Adjust Taxes and Benefits at Year's End by a Simple Formula Based on the Degree to Which the Parents Share Physical Custody

PRESUMPTION:

Include joint custody cases in the system and adjust taxes and benefits at year's end by a simple formula based on the degree to which the parents share physical custody.

Background:

The issue we are addressing involves apportioning financial responsibility for the care of children when there is some form of shared residential care. That is, when a child is living with one parent, the other responsible parent should be contributing to the financial cost of the child's upkeep. This has little to do with the legalistic concept of joint custody which defines who has a responsibility for the character of the childs upbringing rather than dictates where the child resides. For example, either natural parent would legally have a say in the medical treatment of the child under a joint custody arrangement even though the child resides with one of the natural parents for an entire year. On the other hand, it may be possible for a child to reside with the "absent parent" for several months during a given calendar year even though it is not a joint custody arrangement. In short, joint custody speaks to a legalistic rather than a residential relationship between the natural (or adoptive) parent and the child.

RATIONALE:

To exclude all those with joint custody from the system is to both create: (1) tremendous economic incentive for absent parents who seek to avoid the child support tax to secure joint custody, and (2) a readily available loophole for avoiding the tax. Eligibility decisions should in general not be based on behavior that is easily changed. All experience in the long history of welfare and other transfer programs testifies to this.

While joint legal custody is probably desireable and probably worth encouraging, as noted in the background section joint legal custody is not relevant to considerations of how much the absent parent should pay the custodial parent. Therefore conditioning the liability of the absent parent upon joint custody is an inappropriate way of taking care of cases where there is joint physical custody.

In cases of perfect sharing of physical custody there is no absent parent or custodial parent. Both are equally absent and equally custodial. The taxes and benefits in such a case should be zero.

The hard part would seem to be what to do about the inbetween cases--those cases which involve greater than normal visitation but less than fully equaly sharing of physical custody. But if we (1) define normal visitation numerically and (2) then apply a gradual formula which matches the gradations of the in between cases the hard part becomes easy.

Suppose we say that normal visitation consists of the absent parent having the child on weekends plus up to 1 month in the summer. Numerically that translates into 126 days and nights out of a total of 365 days per year.

Each full day (day plus overnight) that the absent parent cares for the child in excess of 126 full days results in a reduction of 56.5 or nearly 2% of his liability. When the absent parent cares for the child 56.5 full days in excess of 126 he will be caring for the child 182.5 days or exactly half the year.

Perhaps the formula is tilted too strongly toward the custodial parent. That is, the definition of normal visitation may be too broad. It is possible to define anything in excess of weekends as greater than normal visitation. The point is, however, there is a difference between visitation and equal physical custody responsibilities that involves both fixed and variable costs. All formulas which define a number of days greater than zero as normal visitation, incorporate this feature of reality.

To simply exempt those with joint legal custody from our system does not achieve this kind of justice. Rather it will create grave injustice. For those who are most likely to take advantage of this loophole are middle and upper-middle income men. They are exactly the people most likely to have joint custody now. They will also be the people most likely to benefit from the law which enables them to reduce their liability in proportion to their share of joint physical custody. For middle and upper income men can better afford to both pay child support and establish a big enough home of their own so that the children can spend lots of time with them. But they will still be part of the system. Then benefit will be perceived as fair. There will be no special loophole for the rich.

COUNTERARGUMENT:

The strongest argument against including the joint physical custody cases in our system is that the simple formula advocated in the previous section would severely complicate the program's administration.

RESPONSE TO COUNTERARGUMENT:

It is simply untrue that administration would be severely complicated. When parents first enter the system they would be asked by the court or an administrative agency whether they planned to share the children's custody in excess of normal visitation. If they agreed to to so, their initial liabilities and benefits would be set according to their estimates of anticipated sharing. At year's end, both parents would be asked via a routine letter whether the actual experience accorded with their estimates. If not they would be required to fill out forms to make a year end adjustment. If there was any disagreement, a hearing would be held and documentation would, as a last resort, be required to settle differences.

ISSUE: Should Families Who Each Take Custody of One or More Children Be Excluded from the System?

OPTIONS:
1. Exclude Them
2. Include Them but Have Taxes and Transfers Only in the Case Where One Parent Takes More Children Than the Other

PRESUMPTION: Option Two.

RATIONALE:

If each parent takes one child or any other equal number of children, the situation is perfectly analogous to perfectly equal physical custody. There should be no tax or transfer. If, on the other hand, one parent takes at least one more children, some tax liability and transfer is appropriate. Excluding such cases from the system is, therefore, inappropriate.

How much the tax and benefit should be, however, is less clear. Should it be the amounts for a 1st child, or a 2nd or subsequent child? My own inclination is to set the liability and benefit at 1st child levels for each child on the grounds that where in doubt we should err on the side of the custodial (or most custodial) parents.

ISSUE: Should the Amount of Child Support Owed by Absent Parents be Determined by a Legislative Formula?

Current law in Wisconsin specifies only what factors should be taken into account in determining child support obligations. Judicial discretion is virtually unbounded. 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.

It is possible to change the child support collection and distribution systems while leaving the determination of the support obligation amounts in the hands of the courts. Alternatively, the amount of support owed could be specified in a legislative formula.

There are three arguments for establishing child suport obligations through legislative formula rather than judicial discretion. First, in view of the existence of programs which assure a minimum income to children in single parent families (AFDC now, poor laws for six centuries, and hopefully child support in the near future) 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. How the support of poor children should be apportioned between the custodial parent, the absent parent and the public is a public policy issue that courts are not suited to resolve. 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. Nearly every

absent parent can find someone who is earning more yet paying less child spuport for the same number of children.

Third, the existing system exacerbates tensions between custodial and absent parents by placing the decision on how much child support should be 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 more likely than not 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. Just as 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 both parents to feel the other has cheated them with regard to the children.

The arguments for retaining the current system are fivefold. First, in response to the argument that standardization would promote equity, is the classic argument that each case is unique. Equity can only be served through detailed individualization. Courts are ideally suited to this task.

Second, most divorcing parents reach agreements without the intervention of judicial or state authorities. Why should the state compel everyone to conform to a rigid formula when the overwhelming majority of divorcing parents reach mutually agreeable private agreements?

Third, displacing anger between spouses to anger directed at the state may be marginally or even very helpful to relations between the absent and custodial parent, but even if the effect is to only marginally

increase hostility to government that is a cost that should be seriously considered.

Fourth, fixing child support obligations in the law may shift the focus of the battle between ex-spouses from the amount of child suport due to who will have custody of the children. Custody fights are likely to be more harmful to the children than fights about child support.

Finally, most of the arguments for a legislated formula for child support would be satisfied by a normative standard formulated by legal and social science experts and circulated to family court judges as guidelines rather than binding law.

While each argument in favor of the current system has some merit, all the merits do not add up to a satisfactory defense of the status quo. The argument that individualization promotes equity is not very convincing.

When the number of cases is small, it may be possible to achieve greater equity by tailoring agreements to each unique 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. Thorough individualization breaks down. Inequity results. In practice, judges now do very little individualization.

It is accurate but misleading to portray the existing system as one in which absent and custodial parents reach private agreements without the intervention of the court. The power of the court to intervene and settle the issue pushes parents in the direction of settling their differences. But each party is guessing what the court would rule if they

don't settle. All this takes place in an adversial atmosphere. And child support as noted above frequently becomes a major source of controversy between the parents. While hostility towards each other might be displaced by hostility towards the government, how serious this will be or even if it will occur is quite uncertain. And, hostility toward government is unlikely to be as harmful to children as hostility over child support between the parents.

Fixing child support obligations in the law might lead to increases in the incidence of custody battles. But the effect is not likely to be large, if the child suport obligation is pegged to the real cost of raising a child.

Finally, a set of guidelines will not achieve what a legislated formula for child support would achieve. Guidelines would leave in place judicial discretion. Where judges agreed with the guidelines they would be implemented. In jurisdictions where judges did not agree, the guidelines would be ignored.

ISSUE: Should the tax rate be proportional or progressive and should there be an exemption or not?

OPTIONS:

1. A proportional tax rate structure with no exemption.

2. Either a progressive tax rate structure or an exemption or both.

SOME DEFINITIONS:

A proportional tax rate structure is one in which the tax rate on all income is identical. A regressive tax rate structure is one in which the tax rate declines as income increases while the tax rate increases as income increases in a progressive tax.

Because the child support tax will not apply to income in excess of the amount required to finance the public benefit, on income above this maximum the child support tax structure can be said to be regressive. But our concern here is with the tax rate structure up to this maximum.

An exemption in a tax, is an initial amount of income that is not taxed. Exempting such an amount of income, therefore, is equivalent to taxing it at a zero rate. Thus having no exemption is just an extreme case of a progressive tax.

PRESUMPTION: A proportional tax rate.

RATIONALE:

There are several arguments for a proportional rather than a progressive tax rate structure for the child support tax. First, to raise a given amount of revenue, the lower the initial tax rate, the higher must be the marginal tax rate on near poor and lower middle income people to raise a given amount of revenue. Since there are many many more lower middle income absent fathers than very low income fathers, we should pay particular attention to the effects on this group from both the efficiency and equity points of view. From the efficiency point of view keeping tax rates low on this group is important to avoid both adverse work incentive effects and tax avoidance behavior. From the equity point of view, things are not quite so clear cut. While there are more near poor and lower class than poor absent fathers, the latter group is by definition worse off.

Betson's simulation will tell us just how much higher the tax rate would have to be for exemptions of various size and other reduced tax rates on initial incomes. My guess, however, is that to have an exemption of $4000, for example, we would have to raise the tax rate for the first child from 20 to 25 percent and maybe even as high as to 30%!

A second reason for having a proportional tax rate with no exemption is that tax rates on most absent fathers with very low incomes are already lower than those on near poor and lower middle income absent fathers. This is because of exemptions plus the progressive tax rate structure in the personal income tax. (To the extent that very low income fathers are eligible for and receive benefits from welfare programs, however, they face higher tax rates than near poor and lower middle income folks. But such are relatively few in number--I think. The Basic Needs Study should help us here.)

A third reason for having a proportional tax is that it would be easier to administer at least for those who earn less than the maximum tax base. For all such workers, wage withholding is very easy to calculate since it is simply equal to a flat percentage of earnings.

COUNTERARGUMENTS:

While twenty percent of income might be a tolerable reduction in income for a middle income person, a twenty percent reduction in income for a poor person could mark the difference between barely scraping by and despair. Further impoverishment of already poor men will do neither them nor anyone else in society good. It may do a great deal of harm.

We need not hold revenue raised constant. The public interest in this case is strong enough to warrant an exemption of income sufficient to cover the basic necessities for survival even if the cost is a greater general revenue subsidy. In other words, whatever we lose in child support tax revenue from the exemption, can justifiably be made up through general revenues.

Further, while there are more near poor and lower middle income than poor absent fathers, how well we treat the worst off amongst us is the ultimate measuring rod of our decency. And, there are more absent fathers who are quite poor than suggested above. Finally, by allowing general revenue contributions to increase, exemptions benefit near poor, lower middle and even some middle income absent fathers.

Finally, the administrative argument is a red herring. The extra costs of administering a non-proportional tax rate system are trivial. And, even if the tax rate is proportional below the maximum, it is regressive above it and therefore already has the complications of a non-proportional tax.

RESPONSE TO COUNTERARGUMENTS:

The administrative argument is not overwhelming.

But, the counter-argument confuses two issues: (1) the level of general revenue financing and (2) the tax rate structure of the child support structure. Some people might be willing to increase general revenue funding only to reduce tax rates on very low income people. Consequently Betson should give us runs on the increase in costs which result from exempting various levels of income (or taxing them at a lower rate). Again, however, it is my guess that most people will not wish to spend much more general revenues to reduce the tax rates on very low income fathers. The public subsidy is already greater for low than high income men with a proportional tax rate structure.

Finally, it comes down to deciding how responsible society wants to make the biological parent for sharing his (or her) income with his child. If the parent lived with the child, he would devote a huge proportion of his income to that child. How much less, as a matter of course, should the government insist on if he leaves the child?

ISSUE: Should Benefits and Tax Rates Per Child Vary with Birth Order

OPTIONS: Yes or No

PRESUMPTION: Yes

RATIONALE:

There are three reasons for having higher benefits for first than for subsequent children. First, research on the cost of children indicates that at least for children whose age difference is not very large, the second child is much cheaper than the first. (The accuracy of this statement will either be confirmed or refuted by Jacques' paper due on March 5. This is my interpretation based on his verbal presentation of November 6. See Suzette's notes for a summary.)

Second, the existing AFDC benefit structure by virtue of having a custodial benefit implicitly provides a larger benefit for the first than for subsequent children. While we have decided not to provide a custodial benefit on grounds of principle, the closer we come to the existing benefit structure the more people we will take off welfare. Thus even if second and subsequent children were as costly as first children, a pragmatic reason for having a higher benefit for first children would be to maximize the reduction in welfare rolls at least cost.

Third, Cassetty's research and MacDonald's forthcoming paper for the conference show that child support awards under the current judicial system and the voluntary agreements between ex-spouses on average provide lower per child benefits for second and subsequent children. Unless there are very persuasive reasons for departing from existing practice, we have agreed that we will not do so.

There are also arguments for having tax rates higher for initial children. Most men have 3 or less children. If we want to put a maximum on the total tax rate on absent parents and maximize revenues from them, this will be achieved by having the highest tax rate for the first child, the next highest for the second child and so on.

COUNTERARGUMENT:

Providing different benefits per child complicates program administration, creates the need for additional rulings with respect to (1) entitlements and obligations of parents who each take one or more children and (2) the obligations of an absent father of children of two or more different mothers and (3) the obligations of two absent fathers who have parented children by the same mother and (4) creates the possibility that the rulings in these special cases will create adverse behavioral incentives.

Benefit administration is complicated each time we increase the amount of information needed to administer the program. If benefits vary with birth order, we must know birth order. If not, we need not know birth order.

If a man parents two children by different mothers will he pay the tax for first children in both cases or only for the first born? And, if the latter will the second child get only a second child's benefit?

Similarly if two men each parent a child by the same mother, will each pay the tax for the first child? Will the mother receive two first child benefits?

RESPONSE TO COUNTERARGUMENT:

In the vast majority of cases (two or more children all of the same two parents) obtaining information on birth order is neither difficult nor costly. Even for men who parent two children by different mothers, the information should be readily available from the man in question. For if the tax rate is lower for second and subsequent children the man has an incentive to demonstrate that the child in question is not his first child.

In cases where there are two fathers and one mother, or two mothers and one father, we would recommend that taxes follow benefits rather than vice versa. This will simplify both benefit and tax administration. Benefits will simply depend on the number of children. We need know nothing about whether one or more fathers were involved.

To determine tax rates, we would have to know whether a father parented the first, second, or nth child in a benefit unit to determine his tax liability. But because it is in the absent father's interest to prove that the child he is obliged to support is not the first in the unit, this information will be readily available in cases where it is pertinent.

ISSUE: Should There Be a Maximum Tax and/or Benefit No Matter How Many Children Are Involved

OPTIONS: (1) No Maximum
(2) Increase in Tax Rates and perhaps Benefits as well become Zero after a certain Number of Children
(3) Tax Rates per Child and perhaps Benefits per Child as well Decline Continuously as the Number of Children Increases Getting Close to Zero (perhaps as low as one or two percent) by the Fourth or Fifth Child

PRESUMPTION: Option (3)

RATIONALE:

The Rationale for placing an effective maximum on the tax side is that beyond some tax rate, revenue raised will decrease as the tax rate increases. This is so because the higher the tax rate the greater the incentive to hide income. On the other hand, the higher the tax rate, the greater the revenue raised from income that is not concealed from the authorities. At some point the tax rate becomes so high that any increase in the tax rate will lead more income to be hidden than the extra revenue raised on the reported tax base.

But the objective of placing a maximum on the tax rate is better achieved by approaching the maximum very, very slowly. So slowly in fact that nobody ever actually hits it. (In mathematical terms we want to approach the maximum asymptotically). In principle, we want each additional child to incur an additional obligation. Even if the tax rate increases only 1%, or 1/2%, or 1/4% for each additional child, we achieve the objective in principle at practically no extra administrative cost.

While there is a strong rationale for placing an effective maximum on the tax side, the same rationale does not apply to the benefit side. Still there is another independent rationale for placing an effective maximum on the benefits to children living in the same household. For if I understand Jacque's findings, if there are already a large number of children, the marginal cost of another one at least between the age of perhaps 3 and 18 is close to zero. But it is probably the case that the zero cost comes at between 7 and 10 children, while we probably want to get near the maximum tax rate at around 4 or 5 children. This will raise more revenue from the absent fathers with less than 4 or 5 children. Even though this implies a bigger percentage public subsidy for 6th and subsequent children, the absolute subsidy will be smaller and there are fewer such children. Hence this is a general revenue cost minimizing strategy as well as being the appropriate thing to do.

ISSUE: Should an absent parent who remarries receive a reduction in the child support tax?

OPTIONS: (1) Reduction if remarriage alone occurs.

(2) Reduction if new children occur.

(3) No reduction.

PRESUMPTION: Option 3.

RATIONALE:

The main reason for prohibiting a reduction in the child support tax upon remarriage and/or birth of new children is the principle that an absent parent's first responsibility is to his/her first children. The major thrust of our reform effort has been to ensure that money is transferred from the absent parent to the children.

Another argument against a reduction is the cost to the state. Less money would be paid by absent parents if there was a reduction provision, and more money would be paid by General Revenue. The state will already be subsidizing the support for the children of many living, legally liable parents.

This argument is particularly strong if remarriage alone occurs. Why should the state increase its subsidy to pay for a new spouse?

Finally, in principle, the courts do not now recognize either remarriage or the birth of children in a new family as grounds for reducing support.

COUNTERARGUMENTS:

The strongest argument for allowing a reduction is to allow the absent parent to be financially able to start a new family. If we are indeed concerned with the financial care of children, why deprive the new children of their parent's income? Yes, the state will have to pay more for the absent children, but that is a necessary consequence of our commitment to care for children.

Second, we do not want to impoverish lower middle class and near poor fathers. It would do them, their new families, nor anyone else in society good. If a man is making $7000 (minimum wage), is supporting children from a former marriage/union, and then has new children to support, he will do well to barely scrape by. A reduction in his child support tax would seem the only humane thing to do.

Third, we do not want to discourage remarriage and/or having children. Indeed, society is probably better off if absent parents (mostly fathers) remarry. Thus there are grounds for encouraging remarriage, as well as having new children. If we allowed a reduction for remarriage, or better yet, a reduction for remarriage and new children, we would not find ourselves in the unpopular position of obstructing two cherished institutions.

Fourth, although the courts do not now explicitly count new family obligations when being asked to reduce child support payments, they are influenced by an absent parent's debts and expenses. The courts will reduce payments if an absent parent has a large financial obligation. A second family is often the source of those obligations.

RESPONSE TO COUNTERARGUMENTS:

While encouraging remarriage is probably desirable, it is hard to make a case that it is more desirable than encouraging first marriages. So the case for special treatment for remarriage is weak.

In addition it seems unjust to ask taxpayer-strangers to subsidize the free choice of an absent parent to remarry or parent a new child. This is especially true for middle and upper income absent parents who can afford to both pay their full child support obligation and remarry and start a new family. Income testing such a reduction is a possibility but this would further add to implicit tax rates and complicate administration somewhat.

ISSUE: Should the absent parent's child support liability be reduced if he or she parents a new child?

OPTIONS: Yes or No

PRESUMPTION: No

RATIONALE:

If the absent parent's liability is reduced, either the children receiving the support must suffer an income reduction or the public must make up the difference. Neither option is desirable.

Because the children played no role in the decision of the absent parent to have new children, there is no justification for having them bear the costs of this action. While there may be a public interest in encouraging adults to have children, the existence of such an interest is insufficient to justify a public subsidy to absent parents for having new children. For the general interest is most appropriately dealt with by a general subsidy, such as exemptions in the income tax for children, free public education and in most other industrialized countries, children's allowances. It is difficult to think of a convincing rationale for providing an extra subsidy to absent parents.

COUNTERARGUMENT:

When married adults with children parent an additional child, the existing children suffer a reduction in their living standard. Why should it be any different for the children of absent parents?

Intuitively it seems equitable for all children to get an equal share of the parent's income. If the child support liability of the absent parent is not reduced in the event of new dependents, the new children may get a smaller share of the absent parent's resources than the old children.

Third, social stability concerns do provide a justification for providing a subsidy to absent parents. Families are an integrating and stabilizing institution. We will all be better off if absent parents remarry and establish new families rather than remain single and bitter because they cannot afford to do so.

Finally, it will not always be the case that the children an absent parent is required to support will be born earlier than the children the absent parent is living with. For example, a married man with children might parent a new child out of wedlock. Should the old children and spouse be required to suffer for his folly? After all, they had no part in his actions.

RESPONSE TO COUNTERARGUMENTS:

Each of the four counter arguments are addressed in turn. When married adults parent an dditional child, the existing children do suffer a reduction in their standard of living. Usually existing children have no say in the matter. The parents are presumed to act jointly in their own and their children's best interests. When the parents split, however, the custodial parents will have no say in the absent parent's decision

to have another child. Moreover, the new children will not be raised together with the old. So there is no compensation of having another brother or sister for the reduction in living standard.

Second, it does not follow from a belief that all children have an equal claim on their parent's resources, that the child support liability should be lowered when the absent parent has new children. Indeed so long as tax rates on absent parents are reasonable, the new children would get an equal or greater than equal share simply by living with the absent parent.

Third, one can admit that it is preferable for absent parents to remarry and establish a new family rather than remain single and bitter because they cannot afford to do so without favoring a subsidy for doing so. Most divorced men remarry rather quickly. Many start new families. Subsidizing such an activity could be quite expensive. Equally important, providing an extra subsidy for absent parents to have more children could encourage irresponsibility and could weaken rather than strengthen the family as an institution. If absent parents have to bear the full cost of new children, they are more likely to think twice before they parent an additional child.

Finally, how to handle the married father who parents another child out-of-wedlock is problematic. On the one hand, the children and spouse from the marriage have a prior claim on the father's resources and obviously took no part in his decision to parent another child. Further,

the mother of the new child might be aware of the old commitments and in any case bears some responsibility for finding out about the circumstances and commitments of her mate. On the other hand, it does not seem equitable to require a man to pay a smaller share of his income to support a child he parented out-of-wedlock if he does so after rather than before he parents children within wedlock.

ISSUE: Should Collections be Indexed?

OPTIONS: 1. Yes.

2. No.

PRESUMPTION: Yes

RATIONALE:

Assuming that benefits are indexed, then the collection of obligations must also be indexed. Otherwise, program revenues will be eroded over time and the public sector will have to pick up an increasing portion of program outlays. In addition, the objective of ensuring that responsible parents meet their obligations over time will not be guaranteed. On the other hand, if the unlikely situation occurs that wages/income would decline, it is also advisable that obligors be protected (on the average) from such economic reversals. (This rationale assumes that a proportionate tax will be levied up to some income limit.) Finally, there will be less incentive for custodial parents to challenge in court the amount of the levied support obligation if its real value is maintained over time.

COUNTERARGUMENTS:

First, it must be stressed that indexing collections only makes sense if benefits are indexed. Otherwise, collections will not bear any relationship to outlays. Second, as noted above, the most persuasive argument against indexing is that adopting an automatic updating device essentially will remove this aspect of the program from routine public review. It can be argued that any indexing builds an

essentially uncontrollable factor into the program that may, in time, result in serious problems. This is particularly true if benefits are intimately linked to the indexing of collections. If collections were to fall as the absolute amount of the obligation increased, serious financial problems would result.

RESPONSE TO COUNTERARGUMENTS:

Once the decision regarding indexing benefits is made, the decision to index collections is in fact determined. To do otherwise would quickly result in a fiscal imbalance and other programmatic inequities. Essentially indexing collections would involve increasing the taxable income level on a periodic basis. Therefore if we started out by taking 20% of the first 17,000 of income (i.e., a guarantee of $3,400), and the index used increased by 10%, the new collection agreement would be 20% of the first $18,700 (or a guarantee of $3,740). Failure to update the taxable income level will reduce the contribution of absent parents relative to their aggregate ability to pay. And since we envision the system to be a sophisticated collection/disbursement system, it would be impossible to argue that the real level of benefits be maintained over time.

ISSUE: Upon Which Standard Should Collections be Indexed?

OPTIONS: 1. Wage index.

2. Price Index.

3. Other.

PRESUMPTION: Option 1.

RATIONALE:

Many of the arguments cited above can be applied to this issue. Changes in ability to pay ought to be the basis for determining appropriate modifications in setting support obligations. This standard is consistent with current criteria upon which such settlements are either based and/or modified by the judiciary. Furthermore, the general burden on absent parents (in the aggregate) should remain constant over time in the sense that changes would be based upon a general measure of ability to pay.

Most importantly, the same measure must be used to update both collections and disbursement. Otherwise, a fiscal imbalance between revenues and expenditures will occur. While the imbalance could conceivably reduce public expenditures it is not wise public policy to base program decisions upon hidden fiscal windfalls.

COUNTERARGUMENTS:

Granted that the indexation of collections must be carried out using the same standard as is used for updating benefit schedules. However, the key concern of the entire system should be the preservation of purchasing power on the part of beneficiaries. This suggests that the indexing of benefits ought to be based upon the

increase in prices and, consequently, that updating the taxable income level should be based upon the same criteria. Thus, if the predominant concern of the program is children, then the relative rise in prices ought to be the basis for updating both disbursement guarantees and collections.

RESPONSE TO COUNTERARGUMENTS:

The same logic applied above can be used here. It is a reasonably secure guess that wages will rise relative to prices over the long run. Certainly, this has been the historical pattern witnessed over the past 300 years. In addition, since we are arguing that the reform is primarily an intrafamily transfer program, concern with the ability to pay is of paramount importance. Therefore, based upon the criteria of generosity and basic program integrity, it would appear appropriate to use a wage/income measure.

Conclusion: A wage/income measure for updating taxable income limits should be used.

ISSUE: Should There be a Tax on Custodial Parents to Help Finance the Public Subsidy?

OPTIONS: 1) No tax on custodial parent.

2) A tax on custodial parents in cases where there is a public subsidy.

NOTE:

The option of a net tax on all custodial parents is not even considered because such a tax would violate the fundamental constraint that the child support tax not exceed the benefit to the child (except possibly to offset administrative costs). This does not rule out the option of taxing all custodial parents and refunding the tax in cases where there was no public subsidy. The issue of how to administer a tax on custodial parents if there is to be one is discussed separately under issue memo #4. The issue of whether to offset the absent parent liability for above minimum payments through a custodial parent tax refunded to the absent parent is also discussed separately in issue memo #7, which is as yet unwritten.

PRESUMPTION: There should be a tax on custodial parents in cases where there is a public subsidy.

RATIONALE:

The argument for a tax on custodial parents is three-fold. First it will eliminate possible horror cases 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 raised by a tax on the custodial parent is quite substantial. For example, for a program with: (1) $3000 minimum for the first child and a $1500 minimum for the second, and (2) tax rates on the absent parent of 20 and 10 percent for the first and second children, a tax on the custodial parent of 10 and 5 percent for the first and second children will raise $52 million or about 17% as much as the tax on the absent parent. Only about 10 percent of the revenue from custodial parents comes from single mothers. Ninety percent comes from single fathers, remarried fathers and remarried mothers.

Finally, by virtue of reducing the public subsidy, the tax on custodial parents will reduce the incentive of 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.

COUNTERARGUMENT:

There are four arguments against imposing a surtax on the income of custodial parents to help finance the child support benefit. First, since the custodial parent is living with the child, the state must assume as we do in the case of intact families, that the parent is sharing income with the child. Just as the state does not enforce a transfer from married parents to children they live with, nor should the state intervene with a single parent living with the child.

Second, the custodial parent unlike the absent parent is providing custodial care for the children. At the very least this suggests that the custodial parent should pay a much lower surtax than the absent parent.

Third, a tax on custodial parents will decrease their incentives to work, reduce the number of families that leave welfare, and reduce the economic well-being of children in such families.

Finally, it would complicate administration of the program to impose a tax on custodial parents. If a separate income test is used to administer the tax, we are back to the AFDC system. If not, one would have to match tax records of the absent and custodial parents to insure that the sum of their surtaxes did not exceed the child support benefit. Moreover, either custodial parents would have to pay a tax at the end of the year or the state would have to collect the tax from all custodial parents through the withholding system and then refund it in some way to most. Neither option is attractive.

RESPONSE TO COUNTERARGUMENTS:

The first two counterarguments are easily dealt with. The purpose of the tax on the custodial parent is to reduce the public subsidy, not to enforce a transfer from the custodial parent to the child. While provision of custodial care may justify a lower tax on custodial than absent parents, it does not justify no tax.

A tax on custodial parents will reduce their economic well-being, may reduce incentives to work and will reduce the number of families who leave welfare. How big these effects will be depends upon how high the tax rate is. The higher the tax rate the greater the reduction in economic well-being, the number of people who leave welfare and probably the work effort of custodial parents.* On the other hand, the lower the tax rate on custodial parents the greater the public subsidy. On balance these considerations also suggest a lower tax rate on custodial than on absent parents--but not no tax.

A tax on custodial parents will complicate administration. But as the discussion in memo #4 indicates, the complications are not fatal. The extra costs are justified by the objective achieved.

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*Higher tax rates may either increase or decrease work. Higher tax rates decrease the reward for work which decreases work, but also reduce income which increases work. Which effect will predominate cannot be predicted theoretically. Research indicates in general, women work less and men work more in response to higher tax rates.

ISSUE: Should Stepparents be Liable for Custodial Parent Tax?

OPTIONS: 1) Do not count the income of the stepparent in determining the custodial parent tax.
2) Count the income of the stepparent.

NOTE:

An alternative option of making children who live with stepparents ineligible for a public subsidy is actually a variant of counting stepparent income for determining the custodial parent tax. It is a perverse variant, however, in that it also entails increasing the tax rate to 100%, and in cases where the stepparent has less income than the public subsidy, the rate exceeds 100%. While such a confiscatory tax rate raises revenues and, therefore, reduces costs, a desire to avoid such a severe penalty for remarriage leads us to reject this option.

PRESUMPTION: Count the income of the stepparent.

RATIONALE:

When a person marries someone with children and does not adopt those children, his interest in the children is less than that of the custodial parent and normally the absent parent as well. But a stepparent's interest is normally much greater than that of a stranger. It is a reasonable, therefore, to expect stepparents to contribute more to the economic support of their stepchildren than strangers. Taxing the stepparent as well as the custodial parent, therefore, to offset the public subsidy which is, economic support from strangers, is appropriate public policy.

Current policy implicitly taxes most stepparents at 100%, but some not at all. While we have no conclusive data as yet, most analysts believe that only a minority of economically eligible stepparent cases currently get AFDC. Our data indicate for example that while over 1/2 of female heads with children get AFDC, only about 1/6 of remarried females with children get AFDC. While it is probably true that less than half of the latter group is eligible for AFDC it would be surprising if less than 1/3 were eligible. In all those cases where the children are eligible for but not claiming AFDC the stepparent's income is implicitly being taxed at 100%, while in all the cases where AFDC benefits are being paid, the stepparent's income is not being taxed at all. Whatever accounts for the differences--some people are deterred more than others by the stigma of welfare, some are more knowledgeable than others--the outcome hardly seems attractive. Taxing stepparents at the same rate would, therefore, improve horizontal equity by treating equals equally.

Furthermore as noted above, taxing the stepparent at a 100% rate creates a very perverse incentive to avoid remarriage.

Failing to tax the stepparent as well as the custodial parent is costly. The public subsidy is $20 million more if the stepparent is not taxed compared to the case where stepparents are taxed at the same rate as the custodial parent.

COUNTERARGUMENT:

A tax on stepparents will discourage remarriage. It is precisely the desire to avoid this adverse incentive that causes most public finance economists to favor making the individual rather than the family the unit for taxation. To add a new tax based on the family unit is a step in the wrong direction.

Moreover, the tax is easily avoided. Adults can simply live together and refrain from legal marriage.

Finally, counting the child support benefit as taxable income for income tax purposes is an attractive alternative to a special surtax on both custodial and stepparents. Most public finance economists believe public benefits in general should be taxable. Including child support in taxable income will probably even raise more revenue than enacting a special surtax.

RESPONSE TO COUNTERARGUMENT:

Counting stepparent income for the purposes of determining the custodial parent tax does create an economic incentive to avoid remarriage. The incentive in most cases will be small, for where there is a public subsidy the absent parent will pay for most of the benefit. The maximum liability of the stepparent will, therefore, be small. Our estimates indicate that percent of stepparents who are liable for the custodial tax pay $500 or less per year while another percent pay $1000 or less per year. On average, stepparent liability amounts to percent of their income.

In some cases, however, the incentive not to marry will be large. In ___ percent of the cases the stepparent would have to pay $3000 or more

per year. In some of these cases, particularly if the custodial parent and prospective stepparent are poor, we can expect to find a behavioral effect. Most likely some people will choose to refrain from marriage and choose cohabitation instead. This is a regretable cost of including the stepparent's income in the custodial tax base. But if we want to make stepparents more liable than strangers for the economic support of their stepchildren, it is an unavoidable cost.

So long as most people don't respond to the marriage disincentive, the policy of taxing stepparents achieves the desired effect of reducing the public subsidy.

Finally, making child support benefits taxable does not foreclose imposing a surtax on custodial parents in cases where there is a public subsidy. They are not alternatives. They get at different problems and people. Making child support benefit taxable, for example, can ameliorate but cannot eliminate the horror case problem--of a custodial parent with income of $100,000 or more--getting a publicly subsidized child support benefit. At best 1/2 of the public subsidy will be taxed back. The custodial parent tax is designed to ameliorate the horror case and by its nature is better than making child support benefits taxable to prevent a public subsidy going to those who have less need than the average taxpayer.

The custodial tax only effects those who are getting a public subsidy. Counting child support in taxable income effects all income tax payers. So long as a person were not subject to both the surtax and the extra tax that arises from including child support in taxable income there would seem to be no problem with doing both. That is, taxpayers

liable for the custodial parent tax could be told to pay either the surtax or the extra tax from counting the benefit in taxable income, whichever was higher.

ISSUE: Should There be a Minimum Benefit in the Program?

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 aand 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 (and hopefully as suggested in the 1978 Welfare Reform Report, a credit income tax), 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. This elementary and obvious fact has led societies for at least three centuries (dating back at least to the Elizabethan Poor Law) to provide more generous benefits to single parent families, usually headed by women.

The objection to providing more generous benefits to single mothers with children has always been that doing so encourages actual and feigned marital splits. Common sense suggests and economic theory predicts that paying higher benefits to single parents will encourage more actual and feigned splits. Consider the case of a minimum benefit in the child support program. Assume for the moment that welfare does not exist. In the absence of a minimum benefit, the two parents must fully share the economic loss that results from their marital split. In many cases,

relatives (usually parents) of the split couple provide help and thereby help share the loss. A minimum benefit means that, in addition to the two split parents and their families, the public shares in the cost of the split for low income couples. That is, the public reduces the cost of splitting by subsidizing it. Whenever the price of anything is lowered, common sense and economic theory suggest people will buy more of it. The higher the minimum and the lower the couple's income, the greater the public subsidy to splitting.

That common sense and economic theory suggest providing more help to single mothers will increase the number of single mothers is not sufficient to reject a minimum child support benefit. For neither common sense nor economic theory suggest anything whatsoever about the magnitude of the effect. The number of additional splits or feigned splits might range from one every tenth year to thousands per year. If the effect were only one every tenth year, most people would say that while stimulating actual or feigned marital splits is bad, the harm occurs so infrequently as to be greatly outweighed by the good achieved by the more generous aid. We expect the effect is quite small, much closer to one every tenth year than thousands per year. Consequently, the argument that providing a minimum would stimulate actual or feigned splits does not convince us that there should be no minimum. At most, it only cautions us not to make the minimum too high.

Moreover, 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.

ISSUE: Should Benefits be Related to Income of Absent Parent

OPTIONS:

1. Benefits don't depend on the income of the absent parent. The minimum benefit equals the maximum benefit. Custodial parents may ask the courts for higher child support benefits if the absent parent's income is higher than the level required to finance the public benefit.
2. Above the minimum public benefit, there is a private benefit which depends upon the income of the absent spouse. There is a maximum to the income-related private benefit but it is much higher than the minimum public benefit. Custodial parents may ask the court for higher child support benefits if the absent parent's income is higher than the level required to finance the maximum public benefit.

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

RATIONALE:

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 middle class and above families very well. Indeed in many cases the program will worsen their situation.

For several reaaons, the flat mimimum 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. Perhaps even 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 rewards for pursuing child support is the full amount of the order. Once the program is enacted the minimum is guaranteed. Consequently the reward to the custodial parent is reduced to the total order minus the minimum. The reward to the lawyer is some proportion of that. Because of this, in practice the minimum will tend to become a maximum.

While 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 middle income and above families. 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 clerk of courts office. 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 very 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 percent of income seems too high or unfair for middle income

absent parents the case would seem even stronger for low income absent parents.

COUNTERARGUMENT:

The more income and other resources the custodial parent has, the better able she or he is to take care of themselves and their children on their own through the courts. So if a case can be made for child support in excess of the minimum based on higher than average ability to pay of the absent parent, custodial parents can be expected to make such a case in court.

Second, it will obviously be easier to administer a program which pays flat benefits than one which pays benefits related to income of the absent spouse. For in the latter case, it is necessary to know the income of the absent spouse in order to determine the benefit the custodial parent is entitled to receive for the child. Benefits must be adjusted to reflect increases (and perhaps decreases) in the income of the absent spouse for those whose absent spouses pay more than the minimum.

If upper income absent parents become unemployed or ill or lose income for any other reason, the income related program would have to either: (1) let benefits drop to the minimum which would be disruptive to the family and further complicate administration, or (2) continue to pay the higher benefits, which will increase costs. The additional cost would have to come out of either general revenues or additional revenue raised from absent parents whose incomes exceeded the amount ncessary to fund the minimum.

Third, there is no need to have a duplicative system. Custodial parents could be given the choice of either participating in the public system or collecting child support from the absent parent on their own. This would promote choice, further simplify administration and reduce costs.

Fourth, it is not clear that horizontal equity is best served by eliminating the courts entirely, or nearly entirely, from the process. Not fixing a tax rate up to a very high level of absent-parent income leaves room for other financial arrangements to be made, e.g., leaving assets to children. It could be that the percentage tax imposed by the public system would become the norm for those who sued for supplementary support, but that judges could then deviate from that norm where individual circumstances warranted such a deviation. The burden on the courts will be alleviated substantially by a flat benefit program.

Finally, it may be that expenditures on children in married families increase less than proportionally with income. Espanshade's numbers, for example, suggest this. If this is so, a regressive tax structure would notr be so inequitable in that it would only be reflecting the pattern of support of parents who live with their children.

RESPONSE TO COUNTERARGUMENT:

While some custodial parents with absent parents with above average income will get supplementary court orders, others will not. Similarly while some will encounter no enforcement problems, others will. The issue boils down to whether we want to improve collections from lower income absent parents at the cost of lowering payments to children of many middle and upper income absent parents. The option of letting

custodial parents choose between an efficient public enforcement system with a fixed benefit and a higher support order backed by the inefficient private enforcement system poses this tradeoff most starkly. To withdraw public support for enforcement for children in middle and upper income families could be a huge step backwards in Wisconsin. It would weaken even further than the inefficient dual public collection system the position of children from middle and upper middle income families.

Finally, the data do not indicate that expenditures on children increase less than proportionally with income. And if this were the case, it would provide no justification for a flat benefit. Studies differ substantially on how expenditures on children vary by income. Perhaps the best indicates that up to a very high income level, expenditures are relatively proportional to income. But the major point is that one can find a decent study to justify either a proportional or regressive tax structure. No study, however, indicates that additional expenditures on children drop to zero after a certain income is reached. Yet this is the pattern that a flat benefit structure would imitate.

ISSUE: Should There Be A Custodial Parent Benefit?

OPTIONS: Yes or No

PRESUMPTION: No

RATIONALE: First, the program is for child support. Paying custodial benefits doesn't fit with the program's rationale and concept. Second, 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 of 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.

COUNTERARGUMENTS:

The AFDC program since 1951 has paid benefits to custodial parents. If the child support program does not pay a custodial benefit, current AFDC benefits for families with only one and probably even two children will be higher than benefits from the child support program. As a consequence most of these families will not leave AFDC. They will seek a supplementary benefit from AFDC to make up for the absence of a custodial benefit. Since % of all AFDC cases in Wisconsin consist of one child, and another % consist of two children, a child support program without a custodial benefit would do little to reduce the AFDC caseload. Administrative costs to run the new program would increase with little offsetting reductions in AFDC administrative costs. Moreover, for families who continued to rely on AFDC for supplementation, there would be no reduction in the implicit tax rate — at least for low earnings.

RESPONSE TO COUNTERARGUMENTS:

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 economics of scale; the first child costs more than subsequent ones. Indeed, estimates suggest that the first may be twice as costly as the second. It is possible and desireable to stretch the difference even more to "make up" for some of the custodial benefit in AFDC.

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. (See the paper by Jacques on this:) Furthermore, it is likely that the cost in terms of general revenue will increase as the benefits for the first relative to subsequent children increse. This is something we need data on from Dave Betson. On the other hand, the objective of replacing as much of AFDC as possible, drives us in this direction.

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 remmant 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 rate in AFDC on poor mothers and thereby encourage work. A replication of the existing AFDC on poor mothers and thereby encourage work. A replication of the existing AFDC benefit structure may not, therefore, be appropriate. This is a topic we should discuss at length.

If we come within $1000 or even $1500 of the benefit for a one child family, some and perhaps many current AFDC beneficiaries will not seek AFDC supplementation because they will work and as a consequence find that the supplement they are entitled to is small or non-existent. How many will do so is something Dave Betson will be able to tell us once he's got the micro-simulation model working.

If the difference in benefits is as much as $1500, it is very unlikely that more than half the AFDC families with one child will choose not to seek supplementation. This leads me to think we should consider a supplementary benefit for education, training or work in order to both (1) keep these families off AFDC and (2) encourage the custodial parent to engage in one of these three behaviors. I am particularly concerned about the unwed teenage mother. Encouraging her to get back into school or out into the work world is I think important. At this point, I haven't formulated the idea with any greater clarity.

Summary

Both program integrity and cost considerations argue strongly against a custodial benefit. The objective of taking as many people as possible off the welfare rolls, on the other hand argues strongly for having a very high benefit for the first child. Against this objective must be balanced, (1) how big a differential, in benefits for first and subsequent children can be justified on the basis of economies of scale (2) the cost implications of a big differential and (3) public considerations, with respect to the desireability of encouraging work or education among young single mothers. A work or education conditioned benefit may be one way of resolving this dilemna.

ISSUE: Should benefits be indexed?

OPTIONS: 1. Yes.

2. No.

PRESUMPTION: Yes.

RATIONALE:

Since 1974, inflation has emerged as a seminal public policy issue. Clearly, unless some miraculous cure is discovered, inflation will be a significant problem throughout the decade. Despite a slack economy, most econometric models predict an inflation rate somewhere in the neighborhood of 10% for the next year. Unless unanticipated changes occur, we can anticipate inflation rates in the neighborhood of 8-12% in the foreseeable future.

Given this scenario, failure to adopt a benefit indexing provision will result in a serious erosion of the real value of any legislated benefit schedule. In light of current inflationary assumptions, the real value of support payments will be halved in less than five years. This fact will necessitate that custodial parents (and their children) either face a substantial reduction of economic support or do one of two things: (1) return to the courts to initiate or increase a private agreement or (2) initiate an application for, or actions to increase, AFDC benefits. (The former in particular assumes a nonexclusive program structure). In either case, the goal of programmatic simplicity will be seriously undermined. The involvement of the courts will be enhanced and the objective of minimizing the AFDC program will substantially be diminished. In fact, the general attractiveness of the reformed programs will be seriously undermined.

COUNTERARGUMENTS:

Indexing benefits will steadily increase program expenditures. Taxes on absent parents will have to be increased and/or general revenue support will have to be improved. In the first instance, compliance may become an issue. As time passes after the family split, the motivation to comply may subside. Consequently, more obligation avoidance techniques may occur. In the second instance, it is clear that not indexing benefits will ultimately reduce the public burden to support such a program, since a real decline in the value of benefits will result in a smaller guarantee under such a program. Furthermore, there is evidence that the public sector wishes to retain legislative control over program expenditures. Indexing would effectively remove that control from the accepted forum of political review.

RESPONSE TO COUNTERARGUMENTS:

If we are serious about providing income security to children, then we cannot allow inflation to erode those benefits guaranteed under such a program. In addition the argument that noncompliance will be a problem carries little weight. The intent of the reform is to ensure that responsible parents actually meet their child support obligations, not legislate mechanisms that, in effect, allow them to evade such an obligation.

The most persuasive argument is that benefits levels should not be removed from legislative review. However, it is clear that the premise upon which this reform is based suggests that the support of children should not depend upon the whims of either the principle parties (custodial parents and absent parents), the discretionary decisions of public officials (e.g., judges); or volatile public opinion. As we have done with the elderly, children should be protected against the visages of economic fortunes.

CONCLUSION: **Benefits should be indexed.**

ISSUE: Upon what standard should benefits be indexed?

OPTIONS: 1. A wage standard.

2. A price standard.

3. Some other standard.

PRESUMPTION: Option 1.

RATIONALE:

A standard that measures the ability to pay is the most appropriate basis for updating benefit schedules. This decision is primarily based upon the assumption that benefits (or program expenditures) follow from taxes on absent parents (a substantial portion of program income). Remaining consistent with this approach allows us to maintain that the program is an intrafamily transfer system rather than a public sector handout. Using wages as the basis for adjusting benefits ensures that the burden on absent parents is retained at a level that is consistent with their ability to pay, at least on the average. Thus, assuming reasonable career expectations, the obligor can make reasonable assumptions regarding the relative economic burden expected over the tenure of his/her obligation.

Counterarguments: Intuitively, benefits should be indexed by some measure that gauges the relative movement of aggregate prices. This is the only reasonable way of guaranteeing that guarantees under this program keep apace with the costs of raising a child. If the increase in wages do not keep apace of the increase in prices, as has been indexed in the recent past, the real value of benefits will decrease over time.

Response to counterarguments: In the long run, basing indexing upon the relative movement over time of wages/income will best serve the income security of children and effectuate reasonable compliance with

support obligations. While recently price increases have outstripped wage/income increases, this represents a short term anomaly to a long term trend. At worst, we should expect that wage income increases will keep apace of price increases over the long run. Given increases in productivity, they should actually run ahead of prices, a not unreasonable assumption as the country retools during the 80's and 90's. If the opposite occurs, it may still make sense that children will have to share in the burden of adverse economic circumstances, unless we are prepared to argue for a larger public role in the financing of the reformed program.

ISSUE: Should Child Support Payments 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, in most cases, delinquencies are not 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. For, the number of cases <u>potentially</u> 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 with-holding is the strongest argument for automatic with-holding.

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 with-holding.

Withholding at source also has the advantage of being a very convenient way for absent parents to discharge their obligation to pay child

support. The three basic objections to an automatic and universally applied wage assignment system are these:

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 begun.

2. It prevents absent parents from participating actively in supporting their offspring. The absent parent may experience satisfaction in meething this obligation, and it may be the only evidence his family have of his interest in their economic well-being.

3. 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. It could even, in extreme cases, cause applicants for jobs to be rejected because hiring them entailed this obligation for the employer.

The second objection is also an objection to existing Wisconsin law. The first and third, however, are not and 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: (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 resulting from the alternatives.

ISSUE: How should people get into the system?

While there are numerous dimensions to this question, we will focus on the essentials of who and how the intake decision will be made.

OPTIONS:

(1) Local DHSS offices will make the intake decision based upon information provided by the caretaker/absent parents, courts, and other applicable agencies.

(2) The courts will make the intake decision based upon information provided to it in legal separation, divorce, or paternity hearings.

(3) The Department of Revenue will make the intake decision based upon information provided by the above cited agencies.

(4) Other arrangement.

PRESUMPTION: Option (2) - The judicial system will make the basic decision regarding eligibility under the reformed program. That decision will be based upon information provided on behalf of both parties in the judicial consideration of a legal separation, divorce, or paternity action.

RATIONALE: The decision to limit eligibility to those families where a legally responsible absent parent exists suggests that all eligible families will come in contact with the courts. That is, they would normally petition the court for temporary support in the case of abandonment, permanent support

in the case of divorce, or support in the case where an out of wedlock birth takes place. The decision to continue the essential elements of the AFDC program also suggests that the courts represent the best "part of entry" into the system. Current regulations require that AFDC applicants must cooperate in establishing the identity of the responsible parent. First, this would suggest that out of wedlock births would be directed toward the courts to establish paternity and second, that interim aid through the AFDC program would be available until such a judicial review could take place.

Directing all potential applicants through the court system has a number of advantages. It is a formal institution. Applicants would think twice before considering any fraudulent action. The situations it normally considered encompasses the critical data on which eligibility under the reformed program would be determined. That is, data on the liability to support and on marital, residential, and economic status of the principle parties are normally part of the judicial process that lead to the establishment of a support obligation.

Finally, the sticky decision about how to deal with the out of wedlock situation is resolved by this decision and the decision to restrict eligibility to situations where a legally liable absent parent has been identified. Cooperation of the absent parent is no longer an eligibility issue since it is presumed under the eligibility criteria. In short, the courts have the authority, the opportunity, and the necessary data with which to make the intake decision.

COUNTERARGUMENTS: Frankly, I think that the weight of evidence favoring the courts assuming this role is quite convincing. The only

counterargument is that traditionally, the courts have not served as a formal intake agency for income transfer systems. They may feel more comfortable in a referral role rather than having explicit responsibility for serving as the programs point of entry. This formal responsibility, after all, encumbers certain accountability requirements that are more traditionally conceptualized as being the responsibility of a social welfare agency.

RESPONSE TO COUNTERARGUMENTS: In light of previous statements, the court is clearly in the best situation to make this decision. Furthermore, it has the symbolic authority to ensure optimal compliance from absent parents, custodial parents, employers, and other affected parties.

CONCLUSION: Option 4.

ISSUE: Who should be responsible for initiating the application process?

OPTIONS:

(1) Responsibility for initiating the intake process will be provided to the custodial parent.

(2) In addition to the custodial parent, selected organizations and public officials will be required to initiate the intake process under prescribed circumstances.

(3) Selected organizations and public officials will be responsible for advising potentially eligible custodians of their rights and benefits under the program but will not be required to initiate action.

PRESUMPTION: There are two dimensions to this issue. First who will generally be responsible for initiating an application and second, will initiating an application be a relatively automatic process (i.e. start when presumed eligibility becomes a fact) or depend upon the predilection of the caretaker?

Since the benefit can be construed as a basic right of the child and since it can be argued that the public sector has a responsibility to ensure the economic well being of children, it is reasonable to presume the the decision to initiate an application should not totally depend upon the volition of the caretaker and that certain public officials (and others who deal with the children and/or the caretaker in a professional capacity) should have certain responsibilities in this area(Option #2). That is, in cases of divorce and legal separation, specified officers of the court would be responsible for contacting the intake agency. In cases involving out of wedlock births, the hospital administration would be responsible for such a notification. While in some cases such as informal abandonment, the responsibility by default may lie with the remaining custodial parent, the suggested approach remains that the act of initiating the process of determining eligibility should be as automatic as possible.

As noted above, the arguments for this position are essentially twofold. First, the benefit can be considered a right of the child. That right should

be abridged only under clearly specified circumstances. It should not be foregone because of ignorance, negligance, or oversight on the part of the caretaker. It is all too possible that those children most in need of the benefit will not receive such assistance because of the lack of knowledge and/or aggressiveness on the part of the caretaker. It is also prossible that some attribute of the relationship between the natural parents may be influential. For example, the absent father might attempt to coerce (i.e. threaten) or induce (i.e. bribe) the caretaker into not notifying the appropriate authority.

Second, we are assuming that, under this program, the government is guaranteeing a minimal income for children. If this is true, access to that income floor should also be guarantted, at least to the extent possible. It should not be assumed that publicity in and of itself will ensure optimal public awareness and response. This will be particularly true during the program startup period.

COUNTERARGUMENTS: The opposing arguments rest upon two assumptions. First, government does too much already. This approach would increase the public sector's intrusion into personal lives. In addition, it would add to the general administrative burden of the program particularly in terms of additional paperwork, reporting requirements, and interorganizational communications. It may be expected that quasi-public agencies (e.g. private hospitals) might particularly resent any new requirements.

Second, this approach would erode personal privacy and the control over one's life. It is increasingly popular to assume that the basic decisions regarding the well being of children should be determined by the caretaker. To automatically initiate a government process on behalf of one's children potentially intrudes into that parent/caretaker child relationship. In short, it is very paternalistic.

RESPONSE TO COUNTERARGUMENTS: Generally, the above negative arguments are persuasive. However, in this case, we are talking about a child's right. There are numerous examples of the government's role in the affairs of children. Public education, required vaccinations, etc., are imposed by government to ensure the well being of children and the larger interests of society. In this case, the same principle is involved. The privacy of the caretaker is subordinate to the broader interests of the children and of society. Consequently, in this case, the argument for what we term an automatically initiating system is justified.

While the paper work argument is not trivial, it does not necessitate abandoning the proposed approach. Most organizations routinely collect the information necessary to determine that prima facie evidence necessary for initiating the intake process. The only additional requirement would involve forwarding that information to a predetermined agency. This requirement does not appear to be exorbitant.

ISSUE: Who will be responsible for the child support program at the county level?

OPTIONS: 1. IV-D agency

2. Social Services agency

PRESUMPTION: Option 1.

RATIONALE: The present IV-D staff is knowledgeable and experienced in the child support area and is conversant with the local community. They have essential informal contacts as a result of collecting child support in the past.

IV-D is not stigmatized by the image of being a "welfare agency," an image that social services does have.

Enforcement will occur at a local level and will require cooperation from local law enforcement officials, cooperation that IV-D has elicited at the present time.

The IV-D staff is not limited by the psychology of "helping," and therefore do not act like social workers. The staff also has knowledge and familiarity with the court system.

Location and enforcement activities are crucial and are activities that are developed and fostered by the present statewide IV-D administrators' network. IV-D personnel will have access to individual case files in the Central Registry through the terminals in their offices.

COUNTERARGUMENTS: The staff at IV-D does not have the training or familiarity with the statewide computer reporting network. Computer hardware is already at county social services, and one could presume some computer expertise is already available within the staff.

Many child support cases will be initiated through applications for AFDC, and these cases might be better suited to social services agencies.

RESPONSE TO COUNTERARGUMENTS: We will not be eliminating county social services agencies. They will make the initial aid determination for AFDC recipients, but in cases where an absent parent can be found or paternity established, IV-D will be responsible for notifying employers to withhold absent parents' wages.

It will be more efficient to add to child support collection responsibilities carried by IV-D now than to try to totally rearrange the social services agencies. IV-D will not only locate, investigate, enforce collections, but it will receive case referrals from IV-A and the Family Court Commissioner, will notify employers to withhold wages, and will hear changes in circumstances appeals.

The Clerks of Courts will no longer be involved in the child support system. Its only responsibilities are in divorce proceedings. This will most likely mean a reduction in staff at the county level for this office.

ISSUE: Should the system be mandatory or should nonparticipation be allowed?

OPTIONS:

(1) Mandatory system: all eligible families must participate.

(2) Mandatory with limited exceptions: all eligibile families must participate except where specific conditions as determined by the courts suggest otherwise.

(3) Voluntary: the custodial parent has the right not to participate.

PRESUMPTION: Option 2 - Mandatory with limited exceptions option is chosen. That means that in the vast majority of cases, the courts (see issue paper on intake) will initiate participation in this program when eligibility is determined. The court may, under prescribed circumstances, stipulate otherwise if it appears in the best interests of the child(ren) to do so and if satisfactory arrangements for the care of the children has been presented.

RATIONALE: We have argued all along that the child support transfer is a right of the child. To be consistent, access to that right should not depend upon, for example, the whims of the custodial parent. He/she may decide not to participate because of a number of reasons not related to the needs of the child(ren). (e.g., doesn't want anything to do with the absent parent). It is also possible that if receiving benefits were a discretionary

decision, absent parents may coerce the custodial parent into not participating. Since we are arguing that our system is more efficient and equitable than existing arrangements only unusual circumstances as reviewed by judicial authorities should determine whether other arrangements are more appropriate.

Making participation virtually mandatory should also reduce the administration of the system as a whole. Only exceptional cases would need a full judicial review. In most cases the determination of ongoing support will be a rather pro-formal decision.

Still, some circumstances may exist where participation is not in the best interests of the child. The system should not be so rigid as to preclude a response to such a possibility. Consequently some discretion should be afforded the courts to make such a determination.

COUNTERARGUMENTS: The prime argument is that making the system mandatory is paternalistic. No government program should be forced upon anyone. The freedom of the custodial parent to determine the best interests of their charges should be inviolable. Given this line of thought it should remain up to the caretaker to apply for benefits under this program. A vigorous public education and outreach program could be devèloped to instruct persons of the advantages of the reformed system. Thus, participation would be based upon perceiving the relative merits of the program rather than government coercion. This would force administrators to design (and update) the program in ways that optimize its attractiveness.

RESPONSE TO COUNTERARGUMENTS: The weight of previous discussions on this topic has reinforced our basic intention to design a system that (1) guarantees economic support to children and (2) optimizes the degree

to which the support obligations of absent parents is actually met. Allowing for substantial discretion on whether or not to participate would vitrate the programs ability to meet these objectives.

In addition, it would be foolish to presume that an outreach program would ensure that all eligible persons would be sufficiently informed to make a rational choice. The poor, who might benefit most from the program, would be disproportionately excluded from participation.

CONCLUSION: Option 2.

ISSUE: Should caretakers of eligible children have the right to refuse benefits under this program?

OPTIONS:

(1) The caretaker has no say in the decision to award benefits under this program to the eligible children under their care.

(2) The caretaker shall have the right to refuse benefits under this program (or decide the form of such benefits) under such a program, upon notice by a duly authorized program.

(3) The caretaker shall be responsible for seeking out any benefits under available programs.

PRESUMPTION: The basic assumption, once again, is that the benefits provided under such a program should be construed as a right of the child. As such, it would be inappropriate to allow the caretaker to deny children under her care their rightful entitlement. Too many extraneous circumstances related to the situation of the caretaker and/or the absent spouse might interfere with the realization of that right. Such interference might range from circumstances involving coercion by the absent parent to negligence on the part of the caretaker. As a right, the benefits should be made available despite the particular circumstances of the case.

If the benefit were optional, a great deal of confusion might result. The benefit would be one option among many. Caretakers may op in and out of the program more than once in order to advantage themselves of changing circumstances. This would create undesirable administrative problems.

COUNTERARGUMENTS: The position that the benefit is an inalienable right is both paternalistic and inconsistent with the notion that the child's legal caretaker should be responsible for her charge's wellbeing. These are not trivial arguments. It is clear that regarding the benefit as automatic and inalienable substantially erodes the caretaker's latitude in this area. It may, under certain circumstances, inhibit the caretaker from entering into financial agreements with the absent

spouse that would be to the overall best interests of the child(ren). That is, the minimum may become the maximum. If guaranteed, absent spouses may assume that their total financial responsibility is being met through this program. Over time, judicial officials may arrive at the same conclusion.

In addition, there are certain program integration problems. It may be that nonparticipation in this program could be an economically rational choice with respect to the children. That is, the benefits from this program may not be as lucrative as the combined benefits of other income support programs, assuming that one must make a choice. Under that circumstance, requiring that children receive benefits under this program would constitute an economic imposition.

RESPONSE TO THE COUNTERARGUMENT: Ultimately, this issue is not one that puts the power of government versus the rights of the individual. Rather, it is a choice between ensuring a child's entitlement versus rights of the child's caretaker. While precedent exists for government intruding upon the latter's prerogatives on the part of the child, this is generally only done in situations involving compelling societal interest. Whether or not receipt of benefits by a child under this program warrants the kind of governmental intervention described above is, admittedly, a difficult question.

It may be more advisable to construct some limited form of refusal. For example, upon determination of eligibility by the appropriate authority (after having been notified of a family split by the courts), the caretaker will be notified that benefits will be forthcoming and that the absent parent will be subject to an additional tax liability. The caretaker may also be asked to verify selected information about herself, the absent parent, and the children. At this point, the caretaker may be allowed to refuse those benefits on condition that adequate arrangements for the support of the children have been made

and perhaps that a bona fide reason for not participating is available. It is assumed that all AFDC recipients would be required to participate in the child support program.

Clearly, I have not taken a firm stand on this sensitive issue. My predisposition is to treat the benefits and the support liability as an inalienable right and obligation. However, I might be persuaded that this should not be done in any absolute sense.

ISSUE: Once eligibility is determined, how will the actual process of transfers be initiated.

This issue is also multidimensional. To simplify the discussion, we will focus on how we will deal with the issue of initiating collections in interactions where there are taxable wages. (This discussion assumes that the courts are responsible for the initial intake decision.)

OPTIONS:

(1) The courts will contact the employer directly to initiate the collection of support obligations.

(2) The courts will refer their decisions to other state agencies who will subsequently initiate the collection process.

(3) The courts will simply instruct the obligor to contact his/her employer to initiate the appropriate deduction.

PRESUMPTION: Option (1) - The courts will contact the employer directly to iniate the collection of support obligations.

RATIONALE: An important premise guiding the design of this system is that the key activities should be carried out in a routine fashion. In other words, the possibility of human frailty disrupting the establishment and fulfillment of support obligations should be minimized to the extent

possible. This would suggest that the process of initiating collections should not depend upon the compliant behavior of the obligor. While willful negligence may occasionally occur, it is more likely that using the obligor as the intermediary will result in delays and/or incorrect transmission of essential information. It may also be argued that a court order will be responsed to more expeditiously than a request from an employer. Thus, in terms of program integrity and administrative efficiency, the direct contact of the employer by the court would appear to be the best approach.

COUNTERARGUMENTS: The basic argument against this approach is that there may be adverse effects for the obligor if the employer is contacted by an official agency on this matter. Employers may resist being required to make an additional deduction (i.e., the administrative inconvenience argument) and/or may conclude that the employer is less than desirable (i.e., the moral argument). While civil service and union protected employers should not be affected, others might be subjected to negative reactions on the part of their employers. This would include employees working in marginal occupations (i.e., easily replaceable jobs) or those working in sensitive and/or volatile situations. The latter might include white collar positions where the employer believes that this situation would reflect badly on the firm.

There is also a privacy argument. It is argued that the employer should have the right to request the additional deduction without revealing the reason. The same end would be accomplished without intruding upon the obligors right to privacy.

Finally, it might be argued that, once ordered by the courts, few obligors would not respond in an appropriate and efficient manner.

RESPONSE TO COUNTERARGUMENTS: If an employer is going to react negatively, they will do so irrespective of who notifies them. In fact they may be more inclined to comply under a court order than by a request from an employee. Two other facts should also be considered. First, society is generally more permissive regarding divorce and even out of wedlock births. Second, these situations are very likely to be already known by the employer, particularly in smaller firms where it is likely to make a difference.

In short, there is no compelling argument against making the initiation of collections as routine and formal as possible. If problems in compliance do arise, it would fall to the courts to intervene (or accept blame) rather than shift responsibility to the obligor. In the final analysis, this appears both more efficient and humane.

CONCLUSION: Option - 2

ISSUE: How should collections be initiated?

OPTIONS: (1) The obligor shall have total responsibility for making arrangements to meet his support obligation.

(2) The obligor shall have limited responsibility for making such arrangements. That is, he/she must verify that appropriate steps have been taken (e.g. notifying employer) within a prescribed time period.

(3) The collection authority shall be responsible for initiating such actions to ensure that the support obligation is met.

PRESUMPTION: Consistent with the approach adopted on previous issues, it is appropriate for the collection agency to directly initiate the process. In most cases, this would involve contacting the obligor's employer to initiate the surtax. In other situations, it would entail taking such steps as necessary to ensure that periodic income estimates and tax payments have been made.

Developing an adequate collection system is the sine qua non of this program. This would suggest that a no-nonsense approach to the collection process be adopted. Relying upon the obligor to comply voluntarily risks delays and confusion. If the system is to be routine and automatic, those principles should apply to this activity as well. Namely, when the eligibility decision is made (including verification of selected information if necessary), both a notice of award would go directly to the caretaker and a notice describing the obligor's support liability would go to the obligor and to his/her employer(s). Some form of verification that the employer has initiated the proper withholding process would also be desirable at this point.

COUNTERARGUMENTS: There are several reasons why notifying the employer directly might be inadvisable. First, it increases the administrative complexity of the program by adding additional transaction costs to the public sector. Second, this approach incorporates to the public sector a responsibility historically allowed the obligor. In the past, any direct contact with the obigor's employer

resulted from noncompliance. Good faith on the part of the obligor was presumed. Third, there may be circumstances where the obligor will suffer adverse consequences because the employer must now deal with this additional tax. Aside from the inconvenience involved, some employers may harbor prejudicial feelings about certain types of support situations (e.g. out-of-wedlock births). Employees may be able to minimize such consequences if they personally bring this information to the attention of their employer. The personal touch in this kind of situation may be more sensitive to the feelings of all concerned rather than an impersonal notification from a bureaucratic agency.

RESPONSE TO THE COUNTERARGUMENTS: I don't believe that the counterarguments are very persuasive. The administrative process should be routine and not very costly. In fact it may prove more cumbersome and expensive to monitor the voluntary compliance of obligors. Neither do I think that there is any merit to the argument that this is an intrinsic responsibility of the obligor. This reform is substantially based on the premise that the current system is generally failing because of an over-reliance upon voluntary compliance. Perhaps the most troubling aspect of this is the potential stigma effect. However, negative reactions on the part of employers are more likely to evolve from the added inconvenience associated with another withholding responsibility. In fact, a clear set of uniform instructions to the employer may prove to be more efficacious than information verbally provided by the obligor.

It has been suggested that a system might be devised where the employer might not be made aware of the purpose of the additional withholding. The employee would merely request that additional withholding take place. This does not appear to be very realistic since the employer would either have to send the money to a child support related agency or indicate in some fashion the purpose of that additional withholding. The problem of stigma will probably have to be handled in some other way.

ISSUE: Once employers have collected child support revenue from the absent parent, where should they send it? Who should process collections?

OPTIONS: 1. Department of Revenue

2. Division of Economic Assistance

3. Create a new agency

PRESUMPTION: Option 2.

BACKGROUND: A fully automated case management system will be created and most likely will be located in Madison. This Central Registry will track payment and non-payment, will do income assignment, and will print out show cause orders. In other words, the computer system will store case histories and will be able to react to each history in an appropriate manner. There will be a terminal at each county IV-D agency office, and the agency will be responsible for feeding information into the Central Registry. Since the present IV-D agency will be assuming the major responsibility for the Child Support Program on the local level, a restructuring of the present IV-D agencies and county social services agencies will be necessary.

RATIONALE: DEA has considerable experience in administering income transfer programs. DEA has the personnel and the facilities to carry out record keeping, case management, quality control, overall program audits, data verification, fraud investigations, on a state-wide basis. It would be less expensive to use DEA for start-up.

There will be more cooperation from DEA in setting up the new program because the personnel would be retained in their jobs, and perhaps their responsibilities would be expanded by our program. DEA (and IV-D) employees would have less resistance to a new child support program if their jobs were not threatened.

It is more efficient for the newly structured county IV-D agencies to feed their case information to DEA and its Central Registry than to DOR, which has had limited contact with the agencies up to this point.

COUNTERARGUMENTS: DOR has access to information other agencies don't have because of the end-of-the-year income tax filing by individuals. DOR would know the last known address of the individuals, tax refund amounts, whether the absent parent is eligible for homeowner's property tax refund or has property that could be attached, windfall and unreported income of the absent parent.

DOR is accustomed to collecting large sums of money from a larger population. DOR lacks the stigmas associated with organizations typically relating to single-parent families (e.g. local department of social services).

DOR regulations could be changed so that they receive collections monthly and so they can track individuals throughout the year. And DOR currently can tell an employer that his employee didn't pay enough tax last year the employer must withhold more. This supercedes all other obligations.

RESPONSE TO COUNTERARGUMENTS: DOR has little prior experience with distributing income support payments on a regular basis. A top priority of DOR is to simplify the state tax system, as evidenced by piggybacking on existing federal tax program. DOR has explicitly rejected incorporating the burden which our reform program implies, and it does not currently possess personnel or resource facilities to process collections. And, we may receive more political opposition to using DOR than DEA.

ISSUE: How should collections be made from self-employed absent parents?

OPTIONS: 1. Monthly payments made to the DHSS Central Registry.

2. IV-D personnel will collect monthly payments from the self-employed.

PRESUMPTION: Option 1.

RATIONALE: Child support payments will be made on a monthly basis to custodial parents. We must have a monthly monitoring by the Central Registry of money paid into the child(ren)'s account in order to have efficient bookkeeping. We must know if a public subsidy is going to the children of the self-employed so that the custodial parent surtax will go into effect.

The Central Registry will have the capacity to keep a month-by-month tally on the self-employed absent parents' payments or non-payments. It is the cheapest way of doing that tally. The Central Registry will be set up in a manner that allows easy interface with the state income tax system for the self-employed. The Central Registry could be designed to print out a notice if there is a discrepancy between the accounts. This would be more difficult at the local level.

It would be impractical and inefficient for IV-D staff to personally collect child support from self-emplyeds who are in arrears or, as a matter of fact, to collect payments on a personal basis. The basic thrust of the child support reform program if for this to be a non-personal automatic transfer of money.

A pre-coded payment booklet will be given to self-employed absent parents at the time of child support determination by the Family Court Commissioner. There will also be a codified state income tax file number with the booklet for end-of=the-year reconciliation with state income tax forms.

If there is no formal judicial determination on an AFDC case, the Family Court Commissioner can make a calculation (which will be a formula made into law by the legislature) and issue a payment booklet. The FCC will inform the IV-D office, and it will inform the Central Registry.

At the end of the year, Central Registry will calculate from income tax records of the self-employed and make adjustments. A new payment booklet will be issued.

COUNTERARGUMENTS: There is a time lapse between payments issued and end-of-year reconciliation with state income tax forms. There will be a lag of from 4 months to 16 months.

The self-employed are only required to report quarterly to the state income tax system. Our system will be more demanding, therefore there may be more resistance from the self-employed absent parents.

There is difficulty with estimating income derived from the underground economy and certain fringe benefits.

We may collect more money from the self-employed if we use IV-D staff to collect it in person. Self-monitoring is too unreliable.

RESPONSE TO COUNTERARGUMENTS: It is too expensive and a duplication of efforts for IV-D staff to collect child support from the self-employed absent parents.

The state income tax system does have field agents who monitor and audit the self-employed. Some routinized interface with the child support payment system could be developed.

Legislation will have to provide a penalty for the self-employed who fail to report or underestimate income by a certain margin in order to assure compliance.

It will be essential to develop reciprocity agreements with border states in order to have access to their state income tax records.

ISSUE: What should be the basic relationship between the child support program and private agreements?

OPTIONS:

(1) Mutually exclusive - This option would require that a choice be made between entering the child support program and engaging in a private or court sponsored agreement.

(2) Supplemental - This option would allow for the entering into private and court sponsored agreements beyond the income support provided under the reform program. In other words, supplemental agreements may be entered into but only after taking into account the support provided under the reform program.

(3) No specified relationship between the two.

PRESUMPTION: Option 2 which specifies a supplemental relationship is preferred. This means that, except in unusual cases, support under the reform program will be in effect. Either the custodial or absent parent may petition the court to establish an award beyond that provided under this program. However the court must take into account that income to the custodial parent in making that award. Any supplemental award will be directly transferred from the obligor to the obligee.

RATIONALE: Requiring custodial parents to make a forced choice between child support arrangements is unfair and inconvenient. In many cases they would be faced with a choice between a guaranteed income and a somewhat higher payment that would not be guaranteed. The cumbersome situation of a custodial parent first opting for a private arrangement, then opting for the guaranteed transfer when arrearages develop, and subsequently returning to a private agreement when the economic circumstances of the absent parent improved and so on. In any utility maximizing model we risk this pattern of sequential program shifting that will result in administrative confusion and possible abuse.

Furthermore, we have generally agreed that the reformed program should serve as the income floor for children in split families below which no one should fall. To the extent that incentives for not participating are allowed, the program will decrease in importance, becoming in many cases a government funded transfer program for those families where the custodial parent can't meet their obligations or are successful in evading it. That is, the participating population will be spewed toward that group which approximates the existing AFDC caseload. The claim to a universal program will substantially be eroded.

COUNTERARGUMENTS: Allowing for supplemental agreements creates, in effect, a dual system for individual cases. Some support will be received via the reformed program while other support will be forthcoming from private agreements. This will generally complicate accounting procedures and add to the administrative burden of the courts and other agencies that might be involved.

In addition, it does not force a government sponsored program upon people. Rather it allows them to make a rational choice. This is consistent with the current trend away from paternalistic government.

RESPONSE TO COUNTERARGUMENTS: First, it is unclear which approach is more cumbersome administratively. On balance, it would appear that an exclusive approach would create more problems. In every case, a calculated risk based upon future events and behaviors would have to be made. Individuals would be returning to court when their gambles do not work out. The answer to complicated accounting problems lies in automating those procedures. Successfully carrying out that task plus determining efficient mechanisms by which supplemental agreements are transferred from one party to another will ultimately determine administrative feasibility. For example, it must still be decided whether supplemental agreements would also be taxed along with obligations collected under the reformed program.

Second, we wanted to reform the child support program because it has performed so poorly in the past. Allowing people substantial freedom in determining support agreements simply invites a continuation of the failures and inadequacies that have historically been found in this area. While privacy is an important concept, we have philosophically agreed that the public sector does have a responsibility for enhancing the economic security of children. The best way to accomplish that is to provide for an automated and guaranteed child support transfer for all children and not allow the whims of the principle parties and/or inefficient transfer mechanisms to continue.

Finally, as noted before, allowing two exclusive systems will result in the problem cases falling into the reformed system while the good cases will enter into private arrangements. The net result is that our ability to look good in a fiscal sense will be undermined. While this may be somewhat of a cynical agreement, it is not a trivial one.

DECISION: Option 2.

ISSUE: How Should a Surtax on Custodial Parents be Administered?

OPTIONS:

1) Withhold the surtax from the earnings of all custodial parents. Pay benefits equal to the total (absent plus custodial) child support taxes in the child's account, or the minimum, whichever was larger. Above-minimum benefits would begin after 4 months and continue with a four month lag.
2) Collect the tax when income tax returns are filed. Child support checks during the course of the year would contain stubs which indicate how much of the total was from the absent parent and how much a public subsidy. In cases where there was a public subsidy, the custodial parents would also receive a note indicating their liability for the custodial tax. In February, a Wisconsin Child Support (WCS) tax form would be sent to the custodial parents notifying them of their maximum liability. If the tax is not paid in April, the amount due plus an interest charge will be deducted from future payments.

RATIONALE:

The case for the second option is that the first option is so poor. The reasons for rejecting this option are fourfold. First, using the withholding system more than doubles the number of people who would be subject to withholding for this special tax, thereby increasing the burden on employers.

Second, using the withholding system will lead to an enormous amount of unnecessary money shuffling. In most cases, the money would be taken from and then returned in full to the custodial parent. This is so because most absent parents will pay for the full minimum benefit. Even in cases where there is a public subsidy, the public subsidy will in many cases be small relative to the amount withheld from the custodial parent.

Third, withholding the custodial parent tax will exacerbate the hardship caused by the four month lag before above minimum benefits are

paid. Consider a divorced middle class family with two children. Suppose the minimum benefit is $375 per month, the total child support payment is $900 per month, the custodial parent earns $1000 per month and the custodial parent tax for two children is 15%. For the first four months the custodial parent gets only $375 rather than $900. In addition, she loses an extra $150 each of those four months because of withholding of the custodial tax. In other words, her total take-home income is $675 below normal or, assuming the normal withholding rate is 20%, 675/1700 = 40% below normal! That's quite a cut for 1/3 of a year even for an upper middle income person to absorb. True, the withholding custodial tax only contributes the last 9 percentage points of the cut. That is, it excerbates an already existing hardship.

Fourth, a big portion of the custodial parent tax revenue is derived from including the stepparent's earnings in the tax base. To capture that portion through withholding would require withholding taxes from the earnings of all stepparents as well as all custodial parents. This magnifies the severity of the three previous arguments against withholding the custodial tax by a factor of at least two. Plus it is a very strong argument against this option per se.

Finally, a proposal that contains a provision for taxing some people and giving them back the exact amount as a benefit will be politically vulnerable because of such a provision, even if the provision were upon thoughtful examination clearly the best option. For such a provision opens the proposal to the attack that it provides for the government to do little more in millions of cases than undo what it has just done. The credit income tax, with much less real justification, is potentially open

to such an attack, and indeed has been attacked successfully on this ground. At best, however, with-holding the custodial tax will be minimally better than collecting the tax when income tax returns are filed.

RESPONSE:

The strongest arguments for using the withholding system are the weaknesses of the alternative of collecting the tax at the regular end of year income tax return filing time. The biggest weakness of this approach is that many custodial parents (and stepparents) will not have sufficient income at the end of the year to pay the tax. That's why a withholding system was developed in the first place--to make sure that the revenue was collected, without undue hardship, especially from those who found it difficult to budget.

Deducting past due taxes plus interest from future benefits is not terribly attractive and is also likely to be unpopular politically. It won't look good for a public benefit agency to be withholding benefits to pay a debt to the government and charging interest to boot.

Moreover, this solution won't insure collection of the custodial tax during the year that the benefits terminate.

RESPONSE TO COUNTERARGUMENT:

First, the overwhelming majority of custodial and stepparent taxpayers will have no difficulty in paying their child support taxes at the end of the year. __ percent of taxpayers are now under-withheld and pay taxes at the end of the year.

Second, if the benefit agency gets involved in withholding for delinquencies, there is nothing the matter with that. Nor is there anything the matter with charging interest for delinquencies. In both cases, the business of the government would be run in a more business-like manner. Treating clients of government programs like responsible adults, even poor clients, will induce them to behave more like responsible adults.

Third, it should be quite easy for the benefit-paying agency to withhold part of the benefit during the current year at the request of the custodial parent. Custodial parents could be notified of such an option or even requested by the benefit agency to request withholding if their anticipated income is high enough. These options of voluntary or mandatory withholding by the benefit agency might be preferable to additional wage withholding. The latter runs the danger, however, of winding up being administered as a "welfare" program.

ISSUE: What should be the accounting period and should arrearages be accumulated?

EXPLANATION OF ISSUE: The issue of what accounting period to use arises in cases where the absent parent earns too little in a particular period of time to pay for the full amount of the public benefit. For example if the public benefit is $3,000 per year and the tax rate is 20% for the first child an absent parent who earns only $10,000 in a given year will pay only $2,000. If the accounting period is annual, either the public or the custodial parent (if there is a tax on the custodial parent) will have to make up the $1,000 difference. If the accounting period were longer, however, in some cases the difference could be recovered from the absent parent. Suppose for example, that the absent parent's normal income were $20,000. If an arrearage of $1,000 was carried over to the following year, the absent parent would pay 20% · $20,000 which would cover both the $3,000 child support benefit for the current year and the $1,000 arrearage. Even if the absent parent's normal income were $10,000 by making the accounting period sufficiently

long, it is possible to make him pay off public subsidies or arrearages. That is, as soon as the child turns 18 and the benefit to the child ends, we could in principle continue to tax him (or her) until all public subsidies or arrearages were paid.

OPTIONS: (1) A one year accounting period with no accumulation of arrearages.

(2) A longer accounting period to allow for recoupment of subsidies.

PRESUMPTION: An annual accounting period with no accumulation of arrearages.

RATIONALE:

Both administrative and equity considerations argue against attempting to keep track of arrearages and extending the accounting period. Employers would have to be notified in each instance where an arrearage existed to with-hold taxes on earnings in excess of the maximum for that particular employee. By itself this extra burden on the system may be sufficient to justify rejecting this option. Moreover, if there is a tax on custodial parents, the custodial parent as well as the state may have to be reimbursed out of arrearages collected. (For the justification for the tax on custodial parents is to reduce the public subsidy in the event of low ability to pay of the absent parent. If we collect more later from the absent parent, the custodial parent should pay less.) Another set of rules to equitably divide arrearages collected between the state and custodial parent would have to be devised. Record-keeping would stretch over years. It doesn't seem too strong to characterize the outcome as an administrative nightmare.

Attempting to collect the public subsidy from the absent parent at a later date also seems inconsistent with basing the absent parent's liability on his (or her) ability to pay. This "inequity" seems clearest in the case where the absent parent's normal income is insufficient to cover the minimum benefit and liability is therefore extended beyond the child's 18th birthday. If both the tax rate and years of liability (till the child is 18) are considered fair, then it would be unfair to extend liability beyond age 18 or force a low income absent parent to finance the difference between his ability to pay and the minimum benefit. For the minimum is not based on a judgment about the absent parent's ability to pay. Rather the minimum benefit reflects society's judgment that a child in a single parent family ought to have no less than the minimum. Even in the case where the absent parent's income is temporarily low for a year, his (or her) ability to pay that year is low. A low payment is therefore equitable.

COUNTERARGUMENT:

Extending the accounting period beyond a year and collecting arrearages would reduce the public subsidy. Moreover it would jibe with some people's notion of equity in that it would place more of the burden of support on the absent parent rather than the custodial parent or the public. Finally, while it may be more difficult to administer such a system, the computer can handle it.

RESPONSE TO COUNTERARGUMENT:

If the only objectives were to minimize the public subsidy and maximize the absent parent's burden of support it is possible though unlikely that the extra administrative burden could be justified. Computers add substantially to administrative capacity. But they hardly reduce extra costs to zero. Furthermore eliminating the public subsidy is not an objective of our reform effort. Quite the contrary. From the start a public subsidy to make up for the difference between the ability to pay of low income absent parents and the minimum has been an integral part. Such a subsidy already exists in the AFDC program. Our objective has been to assure that it is not a substitute for payments by an absent parent but rather a supplement in appropriate cases.

Finally, while we want to assure that all absent parents pay an equitable amount, we are not trying to "stick it" to absent parents. If the system is to work, most absent parents must believe it is fair. Extending the accounting period beyond a year and collecting on arrearages will appear to many, especially effected absent parents, as an attempt to stick it to them. Resentment and resistence would appear to be virtually assured.

ISSUE: How Should Existing Child Support Cases be Treated Under Our Reform Package?

OPTIONS:

1. Exclude all old cases.
2. Automatically bring in old cases.
3. Automatically bring in old cases but allow appeal.
4. A custodial parent would have to apply for reform program benefits. Otherwise she/he would be excluded.

PRESUMPTION: Option 4.

RATIONALE: The child support reform program's raison d'etre is to greatly improve the lot of children with absent parents. The current financial deprivation suffered by too many children served as a catalyst for our reform. Option 1 is not fair and denies custodial parents a possible improvement in the financial well being of their children just because their cases were settled before our reform program began. There is a legal precedence for permitting changes in regulations to be retroactice.

Option 2, as well as Option 1, is an extreme method of treating old cases and also presents equity problems. It also is not fair to automatically bring in old cases. Suppose the custodial parent is better off under the old agreement with the absent parent? She may have received in-kind transfers (property, stocks, bond, other assets) in lieu of child support payments and may not wish to participate in our program. The custodial parent should have the option of choosing to not make her children worse off.

Option 3, by virtue of being automatic, again leaves less choice to the custodial parent. If her children are being amply provided for by the absent parent, and she would prefer to be excluded from the new system, she then would be required to go through an appeal to keep her original status. Option 3 puts a burden on the administrative personnel of the reform system as well as on the custodial parent who is content as she is. Phasing in the new system will be complicated enough without automatically including all old cases.

Option 4 gives the custodial parent the most freedom of choice while still offering her access to the new system. If she is satisfied with her existing child support order and payments, she does nothing. If she wants to apply for reform benefits, she can. If the reform benefits are more generous than the payments she is currently receiving she will be highly motivated to apply. Option 4 eliminates the possibility of law-suits by custodial parents questioning the constitutionality of changing their child support benefits.

There may even be some old cases where the absent parent is paying much higher benefits than he would under the new program. Option 4 also gives him the opportunity to continue his generosity without the legal procedures necessary in Options 2 and 3. And Option 4 will somewhat ease the administrative burdens of the new system. Options 2 and 3 would present the new system with an onslaught of new participants to process. Option 3 especially may generate a floodgate of appeals to be heard. There are paternity and divorce cases going back 18 years which could not automatically be included in the new program because lump sum agreements were made and or trust fund agreements were made and would require a new hearing.

COUNTERARGUMENTS: The strongest argument for Option 1 is the administrative one. How will existing programs be administered while both the preparations for and the actual transition take place? It would be simpler and easier to include all new child support cases as they appear and to ignore all old cases.

Assuming that all children from old cases would be better off under the new program and that all custodial parents need automatic inclusion to get them into the new program, then Option 2 seems best.

Option 3 assumes that all old cases would not necessarily be better off under the new program and some would require an appeal to get out of the program. It also assumes that all custodial parents will not apply for reform program benefits because she may (1) not hear about the program, (2) be afraid of angering the absent parent if he would have to pay more child support or <u>begin</u> paying under the new program, or (3) feel intimidated by courts, IV-D personnel, bureaucratic procedures.

Another argument against Option 4, as well as Option 1, is that in both cases there would be a dual system--the existing child support cases and the reform program child support cases--and this would prove complicated and confusing.

Option 3 ensures the fairest treatment to the largest number of eligible children. All children with existing child support will be included, and yet, if the reform program benefits are in some way less generous than the existing benefits, there would be ample opportunity for the custodial parent to appeal the new benefits. And the incentive to appeal would be strong in cases where the new benefits made the children (and the custodial parent indirectly) worse off.

Perhaps some form of automatic review of old cases could take place at the time they were included in the new program. A form could be sent to the custodial parent telling her: (1) amount of the new benefits, (2) amount of the old benefits, (3) the difference, if any, and (4) if you would like to appeal, please contact (<u>your local IV-D agency</u>).

RESPONSE TO COUNTERARGUMENTS:

Excluding all old cases would be contrary to one of our basic program objectives, and that is to improve the financial well being of children with absent parents.

Some old cases have financial arrangements other than monthly child support payments. Custodial parents may prefer to keep those arrangements. Those cases would not fit automatically into the new system and including them would result in an unnecessarily heavy burden on the administrative process.

We can give custodial parents credit for being able to take care of their children. We are not in the paternalistic business of leading them by the hand. We can provide them with information about the new program. In fact, we easily can send notices to all custodial parents of old cases. If the reform program benefit is higher than their current child support payments, and in most cases they will be, the custodial parent certainly will be motivated sufficiently to go to her local IV-D agency and apply.

CONCLUSION: Implementing Option 4 will cause the least waves while excluding no eligible children.

ISSUE: Should AFDC and the Wisconsin Child Support Program be Integrated?

OPTIONS:

1. Leave AFDC as is. AFDC will, therefore tax child support benefits at 100%. Get federal re-imbursement for (a) 100% of federal savings arising from new child support program plus (b) additional federal costs for AFDC eligibes who are now participating in the child support program, but did not previously participate in AFDC.

2. Replace parts of AFDC with the new child support program by getting federal waivers to run parts of AFDC differently. Claim federal re-imbursement for same as option 1.

PRESUMPTION: Option 1

RATIONALE:

Option 1 is much simpler and cleaner administratively, according to Dave Lindeman from a legal, federal-state relations point of view, its the easiest way to get federal AFDC $ for the child support program. We can't eliminate AFDC entirely no matter what we do. For example, the part that pays benefits to the wife and children of SSI beneficiaries must remain. So must the unemployed parent segment. So why not just leave the whole program in place.

Most important, it looks like AFDC benefits for a single child and perhaps even a two child family will be higher than the child support benefit. Unless we want to make AFDC beneficaries worse off — which we have explicitly agreed, we do not!—we must leave the AFDC option in tact. We are betting, with good scientific underpinning (recall Betson's brief lecture on 12/5), that most AFDC motheres with 1 child will not seek AFDC supplementation for child support benefits because they will earn enough money to make them ineligible. In other words, we are betting that the child support program with its zero tax rate will entice families to "flock off welfare in droves".

COUNTERARGUMENTS:

We may not be able to get federal AFDC dollars for child support through Option 1. If we get an explicit waiver and say we are just doing things differently we clearly will be able to get the dollars. The argument for claiming federal dollars for the new participants seems expecially stronger if child support is but a variant of the old AFDC program.

RESPONSE TO COUNTERARGUMENTS:

Dave Lindman originally suggested option one to me and convinced me at the time that it would be easier to get the federal dollars via option 1. If so, option 1 clearly dominates because of the opportunity it creates to drain the welfare rolls by offering a positive alternative.

Lindeman's argument is that the law (Section 1115 of the Social Security Act) permits everything we want to do. Only political choices limit us. Indeed he argues that we ought to ask for federal sharing (under clause 403) for the entire child support caseload with a maximum placed on federal liability which exceeds federal AFDC savings by a large margin.

Woody and some other state people should read the law also and Woody and I can jointly expand on this part of the memo. Assuming that Lindeman is right on funding, however, our preference for option 1 is clear-cut.

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