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APPROVED
JAN 4 - 1975

Statement issued 1/4/75

THE WHITE HOUSE
WASHINGTON

ACTION

LAST DAY: January 4

January 3, 1975

*Posted 1/4/75
TO ARCHIVES
1/6/75*

MEMORANDUM FOR THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill H.R. 17045 -- Social Services Amendments of 1974

BACKGROUND

H.R. 17045 presents the dilemma of legislation containing a good section and a questionable section:

The good section is Part A which would enact as Title XX of the social security act a reformed and consolidated program for Federal financial assistance to state agencies which provide services to welfare recipients and low income persons. This section is a result of close cooperation by HEW, the Governors Conference, the Association of Public Welfare Administrators, and Congressional leadership. It is an excellent example of Administration leadership and compromise.

Senator Long authored the questionable section, Part B, which would require the Secretary of HEW and the Secretary of Treasury to take a central, leadership role in enforcing the alimony and child support obligations of absent parents. Although it encompasses many of our features, it also contains a number of rather extreme provisions to ferret out parents unwilling to pay for child support.

Every once in a while very extreme legislation which directly reflects the frustrations of the taxpayer will slip through the Congress: Part B is aimed at "welfare cheaters" and "missing fathers". Some of its more extreme provisions would:



- Require HEW to establish a 400 man staff (including a Parent Locator Service) to search for and furnish information of the whereabouts of absent parents in Federal, state, or local files (except where it would conflict with census confidentiality or national security interests).
- Federal, state, and local government officials would have to cooperate with this staff, regardless of any existing law now prohibiting cooperation.
- The IRS would be responsible for collecting alimony and child support obligations referred to it by HEW.
- Any money payments (including wages, social security benefits, etc.) made by the United States would be subject to garnishment by legal process in order to secure child support or alimony.
- Aid recipients would be required to cooperate with state agencies in establishing the paternity of children born out of wedlock and providing information on an absent parent as a condition for the receipt of their aid.
- The use of Federal Courts by HEW would be authorized by the enforcement of child support obligations, and these could not be released by a discharge in bankruptcy under the Bankruptcy Act.

More detail is included in the Enrolled Bill report at Tab A.

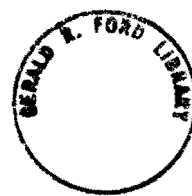
CURRENT SITUATION

The dilemma on a gut issue, such as presented by Part B, is how to advocate reasonable government action without being demagoged by both sides. The alternative advocated by HEW is to sign the legislation to get Part A enacted into law, and to then try to modify the extreme sections of Part B in the 94th Congress. OMB advocates the opposite tact of vetoing the legislation now to avoid the extremes of Part B, and then trying to get something similar to Part A out of the 94th Congress.

OPTIONS

1. Sign H.R. 107045, and propose amendments to Part B next session.

PRO: Part A is excellent legislation much needed by HEW. Taxpayers are understandably frustrated at welfare cheaters and missing



fathers, and you could never adequately explain your refusal to stop the abuse on the ground of the right of privacy.

CON: Part B is no good on the merits and represents an extreme to which the Federal government should not stoop. Moreover, a veto would allow you to submit a new social services proposal next year with a lower Federal match.

2. Veto the legislation, and attempt to repass the better parts next session.

PRO: Reconsideration of Part B will allow time for appropriate Administration consultation and result in more reasonable provisions.

CON: You will never again get as good an agreement on Part A, and claiming privacy as a reason to protect welfare cheaters and missing fathers is an ill-conceived misuse of an otherwise good issue.

RECOMMENDATIONS

| | |
|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cole | Strong approval, "Part A is too good to sacrifice, and Part B is not all that bad." |
| Areeda | Mild disapproval, "I mildly favor veto because the Federal Government should not be involved in enforcing parental support obligations, and especially not by the large apparatus the bill would create. But if the President feels otherwise, he should sign the bill notwithstanding the Privacy Committee's objections, which are greatly overstated." |
| Ash | Disapproval |
| Loen | Disapproval |
| HEW | Strong approval |
| Treasury | Approval (Defers to HEW, but would disapprove IRS provisions alone) |
| Labor | Approval (Defers to HEW) |
| Civil Service Commission | Approval |
| Justice | No objection to approval |
| Defense | Disapproval (Defers to OMB, has reservations about garnishments) |
| Domestic Council | Strong disapproval |
| Committee on Privacy (Metz) | |
| Advisory Committee on Intergovernmental Relations | No comments |



DECISION: H.R. 17045

DRJ. 1. Sign
(Bill at Tab D, Statement at
Tab C)

2. Veto
(Memorandum of Disapproval
at Tab B)



THE WHITE HOUSE
WASHINGTON

ACTION

January 3, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Secretary Weinberger's views
on three pending enrolled bills

Secretary Weinberger called this morning to strongly urge that his personal views about the following three bills be brought to your attention. The Secretary's views will be transmitted to you in the enrolled bill memorandum.

1. H.R. 17045 - Social Services Amendments of 1974

The Secretary strongly recommends that you sign this bill.

2. S. 2994 - National Health Planning and Resources Development Act of 1974

Here again the Secretary strongly recommends your approval of this bill.

3. H.R. 14449 - Extension and Modification of the Economic Opportunity Act

On this bill the Secretary feels strongly that you veto this bill and issue a memorandum of disapproval.

I call these three bills to your attention separately because of the Secretary's strong recommendations. You may want to telephone him prior to acting on these bills.



Department of Justice
Washington, D.C. 20530

JAN 3 1975

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with an oral request from your office we have examined section 101 of H.R. 17045, the Social Services Amendments of 1974, and section 3(b) of S. 3418, the Privacy Act of 1974, which we understand was approved by the President on January 1, 1975.

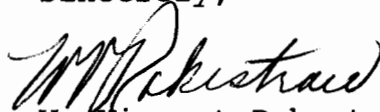
Section 101 of H.R. 17045 would add a new section 453 to the Social Security Act. Subsection 453(a) would require the Secretary of Health, Education and Welfare, upon the request of an authorized person and notwithstanding any other provision of law, to provide the most recent address and place of employment of any absent parent. Proposed subsection 453(c) would define the term "authorized person" to include (i) an agent or attorney of any state having in effect an approved state plan, (ii) any court having authority to issue a child support order, or (iii) a parent, guardian, attorney, or agent of a child without regard to the existence of a court order. New subsection (e)(2) would provide: "Notwithstanding any other provision of law, whenever the individual who is the head of any department...of the United States receives a request from the Secretary for information... under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department.... If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States...such information shall not be transmitted and such individual shall immediately notify the Secretary."

Section 3(b) of S. 3418 added a new section 552a to title 5, United States Code, prohibiting any agency within the Executive Branch of the Federal Government from disclosing any item of individually identifiable information by any means of communication to any person, or another agency, except pursuant to a written request by, or with the prior written

consent of, the individual to whom the information pertains. There are exemptions from this prohibition provided for in S. 3418; however, none of the exemptions would appear to cover requests made pursuant to proposed section 453 in H.R. 17045.

It is the view of this Department that whatever the inconsistency in the intendments of these two provisions, there is little doubt concerning the legal effect. Clearly, the provisions of H.R. 17045, which would be approved by the President subsequent to the January 1, 1975, approval of S. 3418, would prevail.

Sincerely,

A handwritten signature in cursive script, appearing to read "W. Vincent Rakestraw".

W. Vincent Rakestraw
Assistant Attorney General

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JAN 2 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 17045 -- Social Services
Amendments of 1974

This memorandum provides an overview of H.R. 17045. It includes the major advantages and problems contained in the bill; the views of the major affected agencies; and my recommendation. Attachment A is a more detailed enrolled bill memorandum, including the formal views letters of major agency heads.

Part A of the bill would enact as Title XX of the Social Security Act a reformed and consolidated program for Federal financial assistance to State agencies which provide services to welfare recipients and low-income persons. This part of the enrolled bill is very similar to the legislation developed by HEW in close consultation with the Governors Conference, the Association of Public Welfare Administrators, and congressional leadership.

Part B of the enrolled bill would require the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to take a central, leadership role in enforcing the alimony and child support obligations of absent parents.

As a member of Congress, you have proposed, and this year the Administration submitted, draft legislation for improving child support collection activities on behalf of children who are receiving payments under the program of Assistance for Families with Dependent Children (AFDC).

Part B of the enrolled bill incorporates many of the features contained in the Administration proposal, but contains a number of provisions opposed by HEW and Treasury during the brief consideration by the Congress in the closing days of the 93rd Congress.



The major problems in Part B of the bill are as follows:

-- HEW would be required to establish a 300-400 man staff, including a "Parent Locator Service" (PLS), required to search for and furnish information on the whereabouts of absent parents in the files of any Federal, State, or local government agency except where the information would contravene census confidentiality or national security interests.

-- Federal, State, and local government officials would have to cooperate with the PLS regardless of whether any Federal or state law now prohibits such cooperation.

-- The Internal Revenue Service would be responsible for collecting alimony and child support obligations referred to it by the Secretary of HEW. Treasury strongly objects to the use of the IRS to assess and collect delinquent support obligations on the grounds that it will require more manpower or reduce the manpower for tax collections, and because it would establish a precedent for using the tax collection procedure in other ordinary creditor-debtor disputes such as collecting student loans, etc.

-- The confidentiality requirements of the Social Security Act would be drastically weakened.

-- Any money payments such as wages, Social Security benefits, and other annuities made by the United States to any individual, including members of the armed services, would be subject to garnishment by legal process in order to secure child support or alimony.

-- AFDC recipients would be required to cooperate with State agencies in establishing the paternity of a child born out of wedlock and in providing information on an absent parent as a condition for the receipt of their AFDC payments.

-- The use of Federal courts by HEW would be authorized for the enforcement of child support obligations, which could not be released by a discharge in bankruptcy under the Bankruptcy Act.

Agency Views

The Domestic Council Committee on Privacy believes that Part B of the enrolled bill ". . . contains ill conceived and potentially injurious collection and disclosure requirements that are grossly inconsistent with the Administration's commitment to protecting personal privacy." The Committee recommends veto.

Defense, CSC, and Justice are all concerned about the garnishment provision as a precedent for garnishing Federal pay and benefits to satisfy other types of legal obligations. Justice also notes that the prohibition of judicial review of the assessment and collection procedures of the IRS may have constitutional limitations. (Defense defers to OMB, Justice has no objection to approval, and CSC recommends approval.)

Treasury states that it would unqualifiedly urge a veto if the bill contained only the provisions which would involve the IRS. However, Treasury defers to HEW on the bill as a whole.

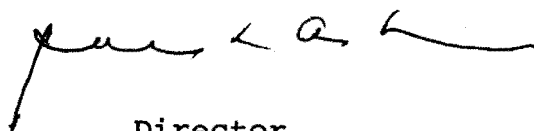
HEW strongly recommends that you approve H.R. 17045. The Department's view is that the social services program reforms contained in Part A far outweigh the objectionable child support provisions which the Department believes can be modified in the next Congress.

OMB. Part A is the result of cooperative efforts between the Administration and major interest groups and represents a desirable attempt to solve many of the problems of the social services program.

On the other hand, Part B goes far beyond the Administration's proposals and has various objectionable features as described above. These provisions were tacked on to the enrolled bill by the Senate as an amendment to the House-passed version of the bill in the closing days of the 93rd Congress. While the Administration could, as suggested by HEW, propose modifications to the next Congress, it is unlikely that the Congress would be willing to entertain amendments.

If Part A does not become law, the moratorium on HEW social services regulations will end on January 1, 1975. However, this need not drive a decision on H.R. 17045, since there is no requirement that new regulations be issued at any particular time. Another factor to be considered is your recent budget decision to propose a lower Federal matching share in the social services program, which could argue for disapproving the enrolled bill and submitting a new social services proposal next year with the lower match.

I recommend disapproval.



Director

Attachments

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JAN 2 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 17045 - Social Services
Amendments of 1974
Sponsor - Rep. Mills (D) Arkansas and 2 others

Last Day for Action

January 4, 1975 - Saturday

Purpose

Rewrites the statutory authorities governing the program of Federal financial assistance to the States for social services in order to clarify the program's purposes, operation, structure, and accountability; provides various new mechanisms, including a far more active role by the Federal Government, to strengthen State efforts in establishing paternity, locating absent parents, and obtaining child support.

Agency Recommendations

| | |
|----------------------------------------------------|--------------------------------------------------------------|
| Office of Management and Budget | Disapproval (Memorandum of Disapproval attached) |
| Department of Health, Education, and Welfare | Approval (Signing statement attached) |
| Domestic Council Committee on the Right of Privacy | Disapproval (Veto message attached) |
| Department of the Treasury | Disapproval (IRS provisions) |
| Civil Service Commission | Approval |
| Department of Justice | No objection to approval |
| Department of Defense | Defers to OMB (Has reservations about garnishment provision) |
| Department of Labor | Defers to HEW |
| Advisory Commission on Intergovernmental Relations | No comments |

Discussion

H.R. 17045 contains two parts:

Part A of the bill would establish as Title XX of the Social Security Act a new consolidated program for Federal financial participation in provision by the States of social services to welfare recipients and low-income persons.

Part B of the bill is directed at strengthening State efforts to collect child support from absent parents, particularly in the case of children who are receiving payments under the program of Assistance for Families with Dependent Children (AFDC).

Part A of the enrolled bill is very similar to legislation developed by HEW in close consultation with the National Governors Conference, the Association of Public Welfare Administrators, and Members of Congress. Its chief differences from the HEW proposal are described below.

Part B was added to the bill by the Senate Finance Committee and is an outgrowth of deliberations in the fall of 1973 on another bill, H.R. 3153, which became deadlocked in conference. The Administration this year submitted draft legislation to the Congress for improving AFDC child support collection activities as part of your 1975 outlay restraint package. As explained below, Part B of the enrolled bill incorporates principles contained in the Administration proposal, but contains a number of provisions opposed by HEW and Treasury during the brief consideration by the Senate Committee and then by the House-Senate conferees in the closing days of the 93rd Congress.

Part A: Social Services Amendments

Legislation in effect since 1962 has permitted States to provide social services to persons receiving welfare and to former and potential recipients. This legislation was enacted with the basic aim of promoting economic independence of individuals who were, or would otherwise become, welfare recipients.

Prior to fiscal year 1973, Federal matching for State social service expenditures was mandatory and had no dollar limit. Every dollar a State spent for social services was matched by three Federal dollars. In fiscal years 1971 and 1972, States

increased greatly their use of this wide-open legislative authority. The result was that Federal matching outlays rose from \$750 million in fiscal year 1971 to \$1.7 billion in 1972, and were projected to reach \$4.7 billion in fiscal year 1973.

Faced with this prospect of runaway expenditures, an annual limit of \$2.5 billion was enacted for this program as part of the general revenue sharing bill in 1972.

On May 1, 1973, HEW issued major revisions in the Federal regulations under which social services are operated by State welfare agencies to tighten up eligibility and services provided under the program. These new regulations, which were to have taken effect on July 1, 1973, aroused widespread opposition, and the Congress by law provided that no new regulations could take effect before November 1, 1973.

On September 10, 1973, HEW published revisions of its earlier proposed regulations, and a final set of new social service regulations went into effect on November 1, 1973. The Congress then again, in December of 1973, enacted legislation invalidating the new HEW regulations and prohibiting any new regulations from taking effect before January 1, 1975.

Part A of H.R. 17045 is designed to end this impasse by clarifying various aspects of the social services program and strengthening its accountability. It would become effective on October 1, 1975, and no new regulations could be issued by HEW to take effect before that time.

The key objectives of the new legislation are to

- give the States greater flexibility and discretion in designing and operating their social services programs.

- provide for greater public knowledge and increased accountability with respect to the use of Federal and State funds for social services by requiring a State planning, reporting, and evaluation process.

- tighten up on eligibility of persons to receive services under the program by tying eligibility to actual welfare status or income levels, with fees authorized to be charged for services.

-- direct the program to community- and home-based care and services, and prohibit Federal payments for construction and for certain services that fall under other Federal programs.

The following is a summary of the principal provisions of Part A of H.R. 17045 compared with present law and HEW's proposal.

Authorization.--The enrolled bill would retain the \$2.5 billion annual ceiling on expenditures, with available funds to be allotted to the States on the basis of population. As in the present law, general reallocation of unused funds would not be authorized, but if there were unused funds, up to \$15 million would be made available to Puerto Rico and up to \$500,000, each, would be available for Guam and the Virgin Islands in Federal matching payments.

The HEW proposal did not provide for reallocation to these three areas, and the Department states that this provision would cause an increase of \$16 million in the cost of the social services program.

States would be required to spend each year out of State and local appropriated funds at least as much as was spent from these funds during fiscal year 1973 or 1974, whichever was less. HEW had proposed a similar "maintenance-of-effort" provision.

The present separate authorizations for services under AFDC and the Supplemental Security Income (SSI) program would be eliminated.

Federal matching.--H.R. 17045 would, as in HEW's proposal, continue the present Federal matching rate of 75 percent for all social services except family planning, for which a 90-percent matching rate would continue.

Based on your recent decision, the 1976 Budget will propose a reduction in the Federal matching rate for this program from 75 percent to 65 percent in fiscal year 1976, with a further reduction to 50 percent in 1977.

The present law requires that 90 percent of Federal matching funds must be used for services to welfare recipients, excluding six "high priority" services, e.g., family planning, child care, and services for drug addicts and alcoholics.

As HEW proposed, H.R. 17045 would eliminate this requirement and provide that 50 percent of Federal funds used by the State must be for services to persons receiving or eligible to receive AFDC, SSI, or Medicaid benefits.

Eligibility and fees for services.--Under present law, welfare recipients and former and potential recipients are eligible for federally-matched social services.

The enrolled bill would provide Federal matching only for services to AFDC, SSI, and Medicaid recipients and to those non-AFDC and SSI recipients whose family income is not more than 115 percent of the median income of a family of four in the State.

Present law contains no provision for fees for services generally, although States are required to provide for child care service payments by families able to pay part or all of the cost of care.

Under the enrolled bill, States would have to charge fees for services to all non-AFDC and SSI recipients and to persons in families with income above 80 percent of the State median income (or 100 percent of the national median income, whichever is lower). In the case of AFDC and SSI recipients and persons in non-welfare families with income below that level, States could charge fees if they so desired, pursuant to HEW regulations.

The HEW proposal would have prohibited fees for services to AFDC and SSI recipients and would have left to States the option of charging fees for persons in non-welfare families below the lower of the national median income or 80 percent of the State median.

Kinds of services.--Present law prescribes certain mandatory services, such as family planning services for AFDC families, but generally contains broad language which could cover a very wide range of possible services.

H.R. 17045 specifies five goals of social services--e.g., economic self-support, self-sufficiency, remedying neglect and abuse--and would require the States to provide services directed toward at least one of the goals in each of the 5 categories of goals and to include at least three types of services for SSI recipients. The enrolled bill would also continue the requirement for family planning services for AFDC recipients. HEW's proposal did not mandate any services, but the Department believes the mandates in H.R. 17045 are of little practical consequence.

Prohibited expenditures.--The present law does not generally specify types of expenditures which the Federal Government will not match, but certain restrictions have been imposed by regulation.

H.R. 17045 would, as proposed by HEW, prohibit Federal matching for certain specified types of expenditures. For example, matching would not be available for

-- the purchase, construction, or major modification of buildings or equipment

-- services to individuals in hospitals, skilled nursing facilities, intermediate care facilities, prisons, and foster family homes, except in certain limited circumstances

-- medical services, with limited exceptions

-- provision of cash for income maintenance purposes

-- funding general educational services

-- private in-kind contributions, and private cash donations could be matched only if transferred to the State and under its control on a generally unrestricted basis as to use.

Child care standards.--Present law applies the standards in the Child Welfare Services program (Title IV-B of the Social Security Act) to AFDC. In addition, the Economic Opportunity Act of 1964 requires all HEW child care programs to follow the Federal Interagency Day Care Requirements of 1968, which specify general requirements as to location, type of facilities, and services which must be made available, sets limits on numbers and ages of children who may be cared for in different types of day care facilities, establishes minimum staffing ratios, and requires parental involvement and other administrative practices.

H.R. 17045 would prohibit Federal matching of in-home child care services unless they meet State standards reasonably in accord with recommended standards of national standard-setting organizations. To receive matching, out-of-home child care would have to comply with the Title IV-B or 1968 Interagency Requirements, except that the staffing ratio for school-age or older children would be somewhat higher than the 1968 Requirements would authorize. HEW believes the enrolled bill is an improvement over its bill in this regard.

HEW proposed, and the enrolled bill would provide for, an evaluation by the Secretary of these requirements, to be submitted to the Congress by July 1, 1977, with any recommendations he may have for modifications. Such modifications could be effected by regulation after 90 days.

Program planning and administration.--Present law requires the submission of State services plans for approval by HEW. Certain elements which must be included in these plans are specified in the law. Once approved, the plans remain in force permanently unless changed by the State with HEW's approval.

In line with HEW's proposal, H.R. 17045 would institute a new annual services program planning process designed to increase public knowledge of and participation in program decisions at the State level. The States would have to publish a proposed plan each year detailing the services to be provided, the population to be served, geographic allocations of resources, and other aspects of the program. Public comment on the plan would be accepted for at least 45 days before the plan was approved and published by the Governor as a final plan. HEW would not have to approve these State plans.

States would be required to report on their use of Federal social services funds subject to HEW regulations; HEW's proposal had included an independent State audit and public reporting at the end of each program year. The Department believes the enrolled bill does not preclude adequate accounting for the expenditure of funds, although it is less explicit and complete than desired.

In connection with the administration of the program, States would be required to submit to HEW for prior approval plans providing for such factors as fair hearings for persons denied services, protection of confidentiality of information, designation of a single State agency to supervise program administration, a merit personnel system, Statewide applicability, and assurance that no citizenship or durational residency requirements will be imposed.

The Secretary of HEW could withhold or reduce Federal funds for failure to comply with (1) provisions of HEW-approved plans described in the preceding paragraph, (2) the reporting requirement, and (3) the maintenance of effort provision.

PART B: Child Support

Present law requires State welfare agencies to make every effort to locate absent parents, establish paternity, and obtain and enforce court orders for support. They are required to make cooperative arrangements with the courts, law enforcement agencies, and other States in these efforts.

The State agencies, in possession of a court order, may request address information on absent parents from the Secretary of HEW, who may search social security records or request similar information from IRS.

These efforts have not been effective, by and large, and to strengthen State efforts both the Administration and H.R. 17045 proposed several major innovations.

Administration Proposal

The Administration, in its November budget cutback proposals, requested the following provisions to secure child support under the AFDC program:

-- State agencies could request address information, including IRS data, without a court order so long as the information would be sought pursuant to an AFDC child support case. The Secretary could, however, deny such information in order to protect rights of privacy.

-- Arrangements to recover child support obligations could be made only if enforceable by law.

-- As an inducement to the States, 20 percent of the Federal share of recoveries for child support would go to the States, to be divided equitably between the State and its subdivisions.

-- AFDC applicants, as a condition of eligibility, would have to furnish their social security numbers and cooperate with State agencies in establishing paternity out of wedlock and in securing support payments. Failure to do so would deprive the uncooperative person (but not any children) of his or her welfare benefits.

-- States could require that AFDC recipients assign to the State their rights of support from any other person.

Enrolled Bill Provisions

H.R. 17045 generally incorporates and goes far beyond the provisions of the Administration's proposal. The enrolled bill's provisions, including divergences from the Administration's proposal, are as follows:

-- A new separate organizational unit would have to be established in HEW whose head would report directly to the Secretary. This organization would set standards for State programs, establish minimum organization and staffing requirements for State units, review and approve State plans, evaluate State plan implementation, and audit State programs to locate absent parents, establish paternity, and secure child support.

-- A "Parent Locator Service" would be established in the new HEW unit to maintain files of the most recent address and place of employment of absent parents. The Secretary of HEW would be required to provide such information, on request, from HEW files or from the files of any Federal or State agency or instrumentality, except if the information would contravene national security or policy interests or census confidentiality. Any authorized person or agency seeking child support could use this service, although in non-AFDC related cases a fee would be charged.

-- States could apply to HEW to use Federal courts to enforce court orders in child support cases, on a finding that another State had not taken action on the court order in a reasonable time and that use of the Federal courts was the only reasonable alternative.

-- The Department of Treasury (IRS), upon the request of a State and certification by the Secretary of HEW, would be required to assess and collect amounts for child support and alimony. No U.S. court would be able to enjoin such actions. A 60-day notice to the liable individual, after assessment is made, would be required before the initiation of collection efforts. A trust fund would be established in Treasury to reimburse States from the amounts collected, less Federal share and collection costs.

-- Each State participating in the AFDC program would be required to have a statewide plan in effect for child support which, among other things, would require the establishment of a single, separate agency to establish paternity and secure child support. The State agency would have to utilize all

sources of information, including HEW's Parent Locator Service. HEW would pay 75 percent of the costs of these agencies. HEW would be required to conduct a complete and annual audit to determine the effectiveness of the State program to secure child support. If the program were determined to be ineffective, the Secretary of HEW would be authorized to withhold 5 percent of the State's allotment of social services funds.

-- U.S. district courts would have jurisdiction in child support cases certified by the Secretary.

-- The provisions for obtaining support would override any opposing provision of State law.

-- Payments due under assigned rights for child support would be a debt owed the State and would not be released by a discharge in bankruptcy under the Bankruptcy Act.

-- Effective January 1, 1975, money payments, such as wages, social security benefits, and certain other annuities, which are made by the United States to any individual, including a member of the armed services, would be subject to garnishment by legal process in order to secure child support or alimony.

-- In general, proceeds from collections would be distributed as follows: (a) States would receive an amount up to the level of their support payments; (b) the amount in excess of (a), up to the level of a court order, would go to the recipient family; and (c) amounts in excess of (b) would be retained by the States as reimbursement for assistance in prior periods, if any; otherwise, these amounts would go to the family.

During the first fifteen months of this program (from July 1, 1975, through September 30, 1976), the above distribution formula would be applied only after paying to the recipient 40 percent of the first \$50 collected each month. This special payment would not reduce the size of the recipient's grant.

In each case, aside from amounts paid to families, the Federal Government would be reimbursed its proportionate share of the amounts collected, with the exception of the incentive payments paid to States and localities out of the Federal share.

-- As an incentive, if a local government collects support payments for its State, or a State collects such payments for another State, it would receive 25 percent of the Federal share of the welfare payment that would otherwise be payable during the first 12 months of collection, and 10 percent thereafter.

Most of the agencies whose views were requested on the enrolled bill express concerns about various provisions of Part B.

Treasury notes that the Internal Revenue Service (IRS) will probably be the general source of information for HEW's Parent Locator Service, and indicates that there are a number of sizeable technical problems, including processing time and difficulty of determining latest place of employment if more than one W-2 form exists. The requirement for disclosure of confidential tax return information impliedly overrides a section of the Internal Revenue Code, and Treasury believes an appropriate amendment to the Code should be sought.

Treasury strongly objects to the provision of H.R. 17045 authorizing the IRS to assess and collect delinquent support obligations. The Department believes that "Forcing the IRS to intervene in such disputes will not only create more controversy, but also will reduce the manpower for tax collection, at a time when IRS is experiencing mounting tax collection delinquencies. Furthermore, we are concerned that this bill will establish a precedent for using tax collection procedures for other ordinary creditor-debtor disputes such as collecting student loans, alimony, etc."

The Domestic Council Committee on Privacy believes Part B of H.R. 17045 "contains ill-conceived and potentially injurious collection and disclosure requirements that are grossly inconsistent with the Administration's commitment to protecting personal privacy."

Defense, Civil Service Commission, and Justice all are concerned about the garnishment provision in Part B because of the administrative burden involved, and because it could serve as a precedent for garnishing Federal pay to satisfy other types of legal obligations.

Justice also notes that the bill's provision prohibiting judicial review of the assessment and collection procedures of the Treasury "may have constitutional limitations."

HEW states that the audit requirement to assure that each State has an effective child support program "would require an inordinate and excessive Federal involvement" in these programs. It defers to the Departments principally concerned with respect to the problems created by use of the Federal courts and the IRS collection processes or the garnishment of Federal wages.

Budget impact of enrolled bill

While it is impossible to assess precisely the impact of H.R. 17045 on the budget, the bill would require adding 300-400 employees and other direct operating costs in HEW, and would also undoubtedly require added personnel in IRS and Justice. In addition, HEW's outlays for social services would rise due to the requirement to match the States' expenses for their programs of securing child support at a 75 percent rate, as well as the reallocation requirement for Guam, Puerto Rico, and the Virgin Islands.

Recommendations

HEW strongly recommends that you approve H.R. 17045. The Department's view is that the objectionable provisions of Part B of H.R. 17045 do not justify rejection of the bill in light of its strong support for enactment of Part A and "the consistency of most of Part B with proposals of the Administration." The Department believes many of the undesirable features of Part B can be modified in the next Congress, and has attached to its letter a proposed signing statement indicating the Administration's objections to Part B.

Treasury states that it would unqualifiedly urge veto of the bill if it contained only the provisions which would involve the IRS in the parent locator service and in the collection of delinquent child support. However, Treasury recognizes that the bill relates primarily to HEW and indicates that if the bill is approved, HEW should exercise discretion to hold IRS' problems to a minimum.

The Domestic Council Committee on Privacy believes that the provisions of Part B of the enrolled bill are "ill-conceived and potentially abusive" and that their excesses "are so egregious as to warrant not only a veto but also an admonishing veto statement." The Committee feels if you sign the bill, there is a grave risk that the 94th Congress will not accept HEW's modifying amendments. The Committee's letter concludes:

"The credibility of the Administration's commitment to safeguard personal privacy is at stake in this measure. At some point we are going to have to stop settling for ill-conceived legislative measures that meet our management objectives but trample on the rights of our citizens and H.R. 17045 strikes us as an excellent place to start."

* * * * *

We believe the basic issue with respect to your action on H.R. 17045 turns on whether the advantages of the social services provisions of Part A of the bill outweigh the problems inherent in the child support provisions of Part B.

Part A is the result of extensive cooperative efforts between the Administration and major interest groups and represents a desirable attempt to solve many of the problems of the social services program.

On the other hand, Part B goes far beyond the Administration's proposals and has numerous objectionable features as described above. While the Administration could, as suggested by HEW, propose modifications to the next Congress, it is unlikely that the Congress would be willing to entertain such amendments.

Failure to approve Part A at this time would not be seriously detrimental to the administration of the social services program. If Part A does not become law, the moratorium on HEW social services regulations will end on January 1, 1975. However, this need not impel a decision on H.R. 17045, since there is no requirement that new regulations be issued at any particular time.

Another factor to be considered is your recent budget decision to propose a lower Federal matching share in the social services program, which would argue for disapproving the enrolled bill and submitting a new social services proposal next year with the lower match.

On balance, we believe the arguments for disapproval outweigh the advantages of enactment of the provisions of Part A. We have attached a draft of a memorandum of disapproval, representing a slightly edited version of the Domestic Council Committee's draft.


Director

Enclosures

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West 11/11

ASSOCIATE DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

~~Warren H. Nichols, HC~~

More on the Social
Services bill - Could
be useful to include
in the President's
package.

Paul A. ...
Suday 3.

H.R. 17045

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

January 2, 1975

The Honorable Roy L. Ash
Director
Office of Management and Budget
The White House
West Wing - 2nd Floor
Washington, D. C. 20500

Attn: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in response to OMB's request for an analysis of the relationship between Part B, "Child Support Programs," of enrolled bill H. R. 17045 and the "Privacy Act of 1974," otherwise known as S. 3418, which the President signed on December 31, 1974. As you know, this office has recommended that the President veto H. R. 17045 on the grounds that the information collection and disclosure requirements of Part B are grossly inconsistent both with the Administration's commitment to protecting personal privacy and with the principles that guided the 93rd Congress in enacting S. 3418.

The features of H. R. 17045 that are of particular concern are outlined in my letter to you of December 27, 1974. Chief among them are the Parent Locator Service that the Secretary of Health, Education, and Welfare would be required to establish, the extent to which the proposed statute would explicitly contravene existing laws and regulations on the confidentiality of personal information, and the plethora of unregulated data flows that would be generated as a consequence of provisions dealing with Treasury Department collection of alimony and child support payments, garnishment of Federal employee wages and salaries, multi-State searches for information about the whereabouts of absent parents, and compulsory cooperation by AFDC applicants in paternity determinations and in the collection of alimony and child support payments.

The breadth and generality of these various information collection and disclosure requirements make it impossible to anticipate all the points at which the legislation, if signed, would frustrate the letter and spirit of S. 3418. However, four such points stand out sharply:

- . H. R. 17045 would violate the letter as well as the spirit of the "conditions of disclosure" section (subsection (b)) of S. 3418.
- . H. R. 17045 would require the States to engage in practices which Federal agencies, by the terms of S. 3418, are forbidden to engage in.
- . H. R. 17045 would establish a policy on locator uses of Federal agency records that was roundly rejected by the drafters of S. 3418.
- . H. R. 17045 runs counter to the policy in S. 3418 on preventing further proliferation of the Social Security number in government records.

With regard to the first of these, suffice it to say that the repetition of the phrase "notwithstanding any other provision of law" in key sections of H. R. 17045 would effectively moot disclosure conditions in S. 3418 that might otherwise impede the operation of the Parent Locator Service. Federal agencies could satisfy the without-consent disclosure limitations in S. 3418 only to the extent that disclosures to the Parent Locator Service could be construed as "routine uses," i. e., disclosures compatible with the purpose for which requested information was collected (subsection (b) (3)), or as disclosures for an authorized law enforcement purpose (subsection (b) (7)), or as required by the order of a (Federal) court of competent jurisdiction (subsection (b) (11)). Otherwise disclosures from Federal agency records pursuant to the requirements of H. R. 17045 would clearly be at variance with the requirements of S. 3418, though legally so, since H. R. 17045 is a later enactment.

With regard to the second point--requirements levied on the States--one should note that H. R. 17045 would clearly require the States to conduct searches of their own records without any of the safeguards for personal privacy that will now protect individuals who are the subjects of Federal agency records. The drafters of S. 3418 expressly refrained from applying its safeguard requirements to record systems maintained by State and

local government agencies, but H. R. 17045, which is fraught with potential privacy invasions, recognizes no such limits. The language of the proposed Amendments to Part A of Title IV of the Social Security Act (subsection (c) (2) on page 22 of the enrolled bill) calls for "safeguards which permit the use or disclosure of information concerning applicants or recipients only to (A) public officials who require such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children." That language, however, is a ruse. What it really does (in subparagraph (A)) is poke additional holes in the confidentiality protections of the Social Security Act, thereby exacerbating and greatly extending the damage done to those protections by Section 413 of the Social Security Act Amendments of 1972 (P.L. 92-603). HEW is on record as favoring repeal of Section 413 but H. R. 17045, rather than repealing it, extends its scope to Title IV.

Moreover, H. R. 17045 nowhere provides the individual who is sought by the Federal locator service, and by corresponding services in the States, an opportunity to confront the information that could be amassed and circulated about him. No accounting need be kept of the various disclosures that could be made as information about an individual wends its way through the labyrinth of Federal and State agencies authorized to receive it and to pass it on for purposes that in many cases would be wholly unrelated to the purposes for which it was originally recorded. Nothing is said about how a successful defendant in a paternity or child support case could expunge the traces of the proceeding from all the records about him in which some notation of it might have been made.

On the third point--identification uses of Federal records--it should be noted that early drafts of the House and Senate bills that became S. 3418 contained a provision which would have permitted Federal agency records to be used for identification purposes not related to protecting the health and safety of the individual in question. However, that language never reached the floor in either body because of the fear that it would give rise to precisely the type of identification use that H. R. 17045 envisages. (One should note also that conforming amendment (d) (2) (page 23 of H. R. 17045 as enrolled) effectively prohibits the Secretary of Health, Education, and Welfare, and the Commissioner of Social Security from exercising discretion they now have to withhold whereabouts information when, in their judgment, disclosing it might needlessly harm an individual).

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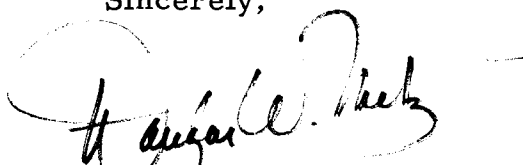
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Finally, the provision of S. 3418 that prohibits Federal, State, and local government agencies from penalizing people who refuse to disclose their Social Security numbers contains an exception for disclosures required by Federal statute; H. R. 17045 would obviously be such a statute. However, it is clear that the sponsors of the Privacy Act's "moratorium" on additional SSN uses aimed to introduce a modicum of rationality and thoughtful deliberation into the adoption of Federal statutes that compel an individual to disclose his SSN. The Congressional Record of the week of December 16, 1974, shows clearly that in the case of H. R. 17045 that aim was not achieved.

These points are the main ones on which we perceive substantial inconsistencies between S. 3418, the new "Privacy Act of 1974," and H. R. 17045. Because H. R. 17045, by virtue of its later enactment, would take precedence over S. 3418, they illustrate why we feel strongly, as I indicated in my letter to you of December 27, 1974, that the credibility of the Administration's commitment to safeguarding personal privacy is at stake in the decision to accept or reject H. R. 17045.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas W. Metz". The signature is written in dark ink and is positioned above the printed name.

Douglas W. Metz
Acting Executive Director

DWM/fme



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DEC 27 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to Mr. Rommel's request for an enrolled bill report on H.R. 17045, a bill "To amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States."

Part A of the bill would establish as title XX of the Social Security Act a new consolidated program for Federal financial participation in the provision of services by the fifty States and the District of Columbia. The provisions of titles I, IV, X, XIV, and XVI of the Act under which Federal funding of social services is now provided, as well as the limitations on that funding in section 1130 of the Act, would be repealed with respect to the jurisdictions eligible to participate in the title XX program.

Under the new title XX, Federal financial participation would be available with respect to expenditures by participating States for the provision of services directed at the goals of achieving and maintaining economic self-support to prevent, reduce, and eliminate dependency, achieving and maintaining self-sufficiency, including reduction and prevention of dependency, preventing and remedying neglect, abuse, and exploitation of children and adults unable to protect their own interests, preserving, rehabilitating, and reuniting families, preventing and reducing inappropriate institutional care by providing for less intensive forms of care, securing referral and admission for institutional care when other forms of care are not appropriate, and providing services to individuals in institutions. The matching rate would be 90 percent for family planning services and 75 percent for all other services. Federal payments to a State in any

fiscal year could not exceed its share of \$2.5 billion allotted among the States on the basis of population. General reallocation of unused funds would not be authorized. However, if there were unused funds, up to \$15 million would be made available to Puerto Rico and up to \$.5 million each would be made available to Guam and the Virgin Islands as Federal matching for expenditures for the provision of services.

Federal financial participation would not be available for certain kinds of expenditures. First, of the expenditures with respect to which Federal matching was paid, an amount equal to 50 percent of the matching payment would have to be expended to provide services to individuals receiving or eligible to receive aid to families with dependent children, supplemental security income benefits (including State supplementary payments), or Medicaid.

Second, matching would not be available for expenditures for the provision of services to individuals not receiving AFDC or SSI who were members of families with an income in excess of 115 percent of the median income of a family of four in the State (adjusted to take account of family size).

Third, matching would not be available for expenditures for most services unless certain requirements concerning fees for those services were met. In the case of services provided to individuals receiving AFDC or SSI or who were members of families with incomes below the lower of the median income of a family of four in the United States (adjusted to take account of family size) or 80 percent of the median income of a family of four in the State (adjusted to take account of family size), the Secretary would prescribe requirements concerning the imposition of fees. In the case of services provided to all other individuals, fees reasonably related to income would have to be imposed.

Fourth, matching would not be available for medical services except in certain limited circumstances; for the purchase, construction, or major modification of buildings, facilities, or equipment; or for the provision of room and board except in certain limited circumstances.

Fifth, matching would not be available for expenditures in the form of goods or services provided in kind by a private entity, and would be available for expenditures of donated private funds only if the funds were transferred to the State and under its control, were donated without restrictions as to use with certain limited exceptions, and did not revert to the donor's use unless the donor was a non-profit organization.

Sixth, matching would not be available for expenditures for child care unless the care met certain standards. In-home care would have to meet standards established by the State reasonably in accord with recommended standards of national standards-setting organizations. Out-of-home care would have to comply with the requirements of title IV-B of the Social Security Act, and the Federal Interagency Day Care Requirements of 1968, except that in the case of day care for children of school age or older in a day care center the maximum permissible number of children per adult would be somewhat higher than that authorized by the 1968 Requirements.

Seventh, matching would not be available for expenditures for the general educational program of the State.

Eighth, matching would not be available for expenditures for the provision of services to individuals in hospitals, skilled nursing facilities, intermediate care facilities, prisons, and foster family homes if the services were provided by the institution or home in which the individual was living, except in certain limited circumstances.

Finally, matching would not be available for expenditures for the provision of cash for income maintenance purposes.

Beyond these specific prohibitions, each State would be free to develop the services program it considered appropriate, except that family planning services would have to be provided to AFDC recipients, and at least three different services would have to be provided for SSI recipients. States would also be required to expend, in each year, out of State and



local appropriated funds, at least as much as was expended out of State and local appropriated funds for the provision of services during fiscal year 1973 or fiscal year 1974, whichever was less.

In addition States would be required to meet a number of requirements related to the administration of their services programs. Of these, the most important would be the requirement that the States develop, each year, a services program plan. This plan would have to be published as a proposed plan within the State, and public comment on the plan would have to be accepted for at least 45 days before it was published as a final plan. The remaining requirements deal with such diverse subjects as providing a hearing to individuals who have been denied services, protection of the confidentiality of information, and designation of single agency to administer or supervise administration of the State's services program.

Part A of the enrolled bill is, in most respects, identical with the social services proposal developed by the Department in close consultation with a broad range of interested groups, including the National Governor's Conference, the Association of Public Welfare Administrators, and members of Congress, and introduced as H.R. 17045 and S. 4082. There are only five notable differences between this proposal and the enrolled bill.

First, the Department's proposal contained somewhat more stringent staffing requirements for out-of-home day care, coupled with authority for the Secretary to modify those requirements after a study of their appropriateness. These more stringent requirements were included in the proposal in the process of developing a consensus on the proposal among those who participated in its development. In our view the enrolled bill is an improvement over our proposal in this regard.

Second, our proposal did not mandate any services. In our judgment, all States would, in any case, provide family planning services to AFDC recipients and at least three services to SSI recipients. Mandating them is, we believe, of little practical consequence.

Third, the Department's proposal prohibited the imposition of fees for services to individuals receiving AFDC or SSI and left it to the discretion of the States whether fees should be imposed on individuals not receiving assistance who are members of families with incomes below the lower of the median income of a family of four in the United States or 80 percent of the median income of a family of four in the State. We do not consider the somewhat different approach taken by the bill to warrant any serious objection.

Fourth, the Department's proposal included an independent audit and public reporting after the end of each program year. The bill makes reporting of the use of Federal funds subject to regulations by the Secretary. While less explicit and complete than desired, this change does not preclude adequate accounting for the expenditure of funds.

Finally, our proposal did not provide for any reallocation of unused funds to Puerto Rico, Guam, or the Virgin Islands. This provision would cause an increase in the cost of the social services program that our proposal did not include, but the increase would be relatively small--\$16 million--compared to the cost of the program as a whole.

The Department strongly supported enactment of the proposal it developed in a report to the Senate Finance Committee on S. 4082, a copy of which is enclosed. As that report indicates, it was, and is, our view that the enactment of the proposal would result in important improvements in the Federal financing of State social services programs. The minor differences between our proposal and part A of the enrolled bill provide no basis for reaching a different conclusion with respect to the bill. The Department therefore strongly supports enactment of part A of the bill.

Part B of the bill is directed at strengthening State efforts to collect child support from absent parents, particularly with respect to children who are receiving AFDC. A new child support and establishment of a paternity program would be established as part D of title IV of the Social Security Act. The program would be directed by a designee of the Secretary and would report directly to him.

States participating in the AFDC program under part A of title IV would be required to have a plan approved under the new part D. To be approved a State child support plan would have to meet six major requirements. First, the State would have to establish or designate a single and

separate organizational unit, which met staffing and organizational requirements prescribed by the Secretary, to administer the plan.

Second, recipients of AFDC would have to be required to assign to the State any support rights they had. The State would have to attempt to secure support payments under any assigned rights, and, in the case of assigned rights with respect to children born out of wedlock, to establish the paternity of the children. Payments due under assigned rights would be a debt owed the State and would not be released by a discharge in bankruptcy under the Bankruptcy Act. The State would also, as part of its AFDC program, have to require cooperation in the collection of support payments as a condition of receiving assistance. In the event of non-cooperation, the AFDC grant would be reduced by the amount of assistance otherwise payable with respect to the non-cooperating recipient.

Third, the State would have to require that all payments made with respect to assigned rights be paid directly to the State for distribution by it. Of the total amount of any periodic collection the State would first retain an amount equal to the AFDC payments made during that period, with appropriate reimbursement to the Federal Government of its share of the assistance. Any excess would be paid to the AFDC recipient except that if the amount of the collection exceeded the amount required by a court order to be paid by the absent parent, the State would retain that excess to the extent necessary to reimburse it for past AFDC payments, again with appropriate reimbursement to the Federal Government for its share of the past assistance. During the first fifteen months of the new part D program this distribution formula would be applied only after paying to the recipient 40 percent of the first \$50 collected each month. This special payment would not reduce the size of the recipient's AFDC grant.

Fourth, the State would have to make the child support collection and paternity determination services established under the plan available to any individual within the State.

Fees would be authorized in the case of individuals not receiving AFDC.

Fifth, the State would be required to establish a service for locating absent parents using all sources of information and available records.

Finally, the State would be required to enter into cooperative arrangements with courts and law enforcement officials to assist in administering the plan and to cooperate with other States in carrying out their plans.

The Federal Government would pay 75 percent of the total cost of carrying out a State plan approved under part D. In addition, if a local government collected for its State, or a State collected for another State, an assigned support right and this resulted in a reduction in AFDC assistance, it would be paid, out of the Federal share of the assistance that would otherwise have been payable, an amount equal to 25 percent of the assistance reduction during the first twelve months of collection, and ten percent thereafter.

If a State failed to have an effective plan approved under part D, its Federal matching under the AFDC program would be reduced by five percent. As a part of this determination a complete and annual audit by the Department of Health, Education, and Welfare of each State's program for child support is required to determine that each State has an effective program. This audit requirement would require an inordinate and excessive Federal involvement in State child support programs.

The Federal Government would undertake several new programs to assist States in their child support collection and paternity determination programs.

First, the Federal courts would be made available to enforce court orders for support against absent parents at the request of a State and upon a finding by the Department of Health, Education, and Welfare that another State has not undertaken to enforce the order of the requesting State within a reasonable period of time and that utilization of the Federal courts is the only reasonable method of enforcing the order.

Second, at the request of a State for assistance in collecting a court ordered support obligation, and upon a finding by the Department of Health, Education, and Welfare that the

State had made diligent and reasonable efforts to collect the support, the support would be collected under the tax collection procedures of the Internal Revenue Service after sixty days notice to the individual against whom the court order was issued.

Third, the Department of Health, Education, and Welfare would establish a Parent Locator Service. This service would attempt to provide the most recent address and place of employment of any individual sought for the purpose of enforcing child support obligations at the request of any agent of a State having a plan approved under part D whose duty it is to collect child support under the plan, any court which has the authority to issue an order against an absent parent for child support, or any parent, guardian, or agent of a child who was not receiving AFDC. All records and files maintained by any department, agency, or instrumentality of the United States would be available for the purpose of obtaining this information.

Fourth, garnishment of Federal wages and social security benefits for enforcement of child support and alimony obligations would be authorized.

Many of the principles embodied in part B of the enrolled bill are consistent with the legislation for improving AFDC child support collection activities submitted as part of the President's legislative proposals for controlling Federal outlays in fiscal year 1975. However, the bill contains a number of provisions that were not included in the Administration's proposal and which the Department opposed in the course of Congressional action on the enrolled bill. Some of these provisions, such as those requiring establishment of a separate State organization to carry out child support and paternity determination activities and those requiring that State child support and paternity determination services be available to all individuals are not so objectionable as to be a basis for serious objection to the bill.

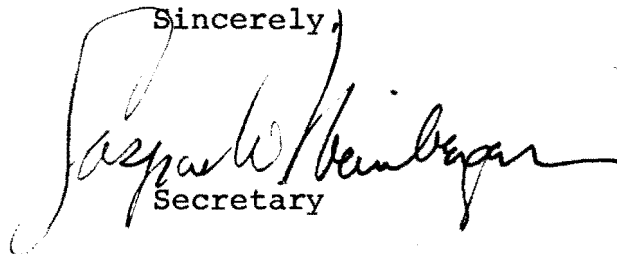
On the other hand, the bill's provisions for use of the Federal courts and the Internal Revenue Service collection processes in child support cases, for establishment of a

Parent Locator Service, and for garnishment of Federal wages and social security benefits are a source of serious concern. The Department recognizes that it is not the only agency that would be affected by the Parent Locator Service program. Nor is it the agency that would be principally affected by the use of the Federal courts and the Internal Revenue Service collection processes or the garnishment of Federal wages, and we defer to the agencies principally affected with respect to the specific problems that these provisions would create. At the same time, it is the Department's view that these provisions of the bill are not sufficiently objectionable to justify rejection of the bill in light of the consistency of most of part B with proposals of the Administration and our strong support for enactment of part A. It should be noted that access to the Federal courts and the Internal Revenue Service collection processes would be subject to control by this Department and we would approve access only when all other courses of action had been exhausted. Further, we would note that in the past, comprehensive legislation such as this has required statutory modification. We believe that many of these undesirable features can be modified in the next Congress.

We therefore strongly recommend that the bill be signed into law and that the signing be accompanied by a statement indicating the Administration's objections to part B. A draft signing statement and an analysis of the fiscal impact of the bill is enclosed.

The proposed signing statement does not include reference to the prospective proposal on changed Federal-State matching on advice from your office that this proposal will be cast in a larger context of several adjustments to Federal-State matching ratios to be proposed.

Sincerely,



Secretary

Enclosures

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Honorable Russell B. Long
Chairman, Committee on Finance
United States Senate
Washington, D. C. 20510

FILE 1974

Dear Mr. Chairman:

This is in response to your request of October 10, 1974, for a report on S. 4082, a bill "to amend the Social Security Act to establish a consolidated program of federal financial assistance to encourage provision of services by the States."

This bill would provide for a new relationship between Federal and State governments in the administration of social services programs now operating under title IV-A, Aid to Families with Dependent Children, and title VI, Services for the Aged, Blind, and Disabled. Five broad goals would be established, within which the States would be responsible for planning and carrying out a program of services to meet the needs of their people. These goals would be (1) achieving and maintaining economic self-support to prevent, reduce and eliminate dependency, (2) achieving and maintaining self-sufficiency, including reduction and prevention of dependency, (3) preventing and remedying neglect, abuse, and exploitation of children and adults unable to protect their own interests, and preserving, rehabilitating, and reuniting families, (4) preventing and reducing inappropriate institutional care by providing for community-based care, home-based care, and other forms of less intensive care, and (5) securing referral and admission for institutional care when other forms of care are not appropriate, and providing services to individuals in institutions.

States would have increased flexibility in determining which services to offer, within several limitations: No monies would be allowed for (a) capital improvement,

(b) room and board or medical services, except under limited conditions as an adjunct to social services, (c) out-of-home day care which did not meet Federal interagency requirements, (d) educational services provided free to other citizens, (e) services by institutions to their residents, and (f) services otherwise paid for under Medicare, Medicaid, or any other Social Security Act program.

The bill would maintain the current ceiling on expenditures at \$2.5 billion a year, with monies allocated among states according to their total populations.

In the current program, eligibility is based on receipt of a categorical public assistance grant, or former or potential eligibility for such a program. S. 4082 would replace this categorical tie with eligibility based on income, allowing Federal reimbursement for free services to persons whose family income was not more than 80 percent of the State median income (or 100 percent of the national median income, whichever is less) and services for which a fee was charged to persons with income of not more than 115 percent of State median income. To insure that a significant portion of the services were reserved for those most in need, an amount equal to at least 50 percent of the Federal share of the monies would have to be allocated to persons eligible for AFDC, SSI, or Medicaid, and their families. Information and referral and protective services to children and adults would be reimbursable, however, without regard to income.

Under the bill, the relationship between the States and the Federal government would be clarified and requirements for accountability both to the Federal government and to the citizens of the States would be strengthened. States would be required to submit to the Department, for prior approval, a plan which provided for fair hearings, confidentiality, the designation of a single agency to supervise program administration, a merit personnel system, statewide applicability, financial participation by the State, the designation of State standard setting and enforcement authorities to monitor facilities offering day and residential care, and an assurance that no citizenship or

Carational residency requirements will be imposed. The 1968 Federal Interagency Day Care Requirements would remain in effect (at least until 1977) with one addition: for children under three there would have to be one adult for every two children. Also, the bill would provide that the Secretary shall prescribe regulations governing reimbursement for social services expenditures for persons living in foster homes.

A new annual services program planning process designed to increase public knowledge of and impact upon program decisions at the State level is specified in the bill. Plans would have to detail the population to be served, specific services to be offered, geographic allocations of resources, sources of resources to be used, the organizational structure, the coordination of this program with other services programs, a description of evaluation and reporting activities and the process by which citizen input is taken into account. In addition, after the program year, States would be required to report to the Department and publish how the plans were implemented, evaluate their programs, and provide for an independent audit. The portion of the audit which deals with Federal financial participation would be submitted to the Department. The bill requires the Department to insure that the State's planning, reporting, evaluation and auditing process is in accord with the bill.

The Department wholeheartedly endorses the important improvement in Federal-State relationships that would be fostered by this bill within which States could more effectively target their social services resources to meet the needs of their own people. The proposed amendments would make the State social services program more answerable primarily to the State's citizens, within broad Federal guidelines. I am convinced that this approach can free us all to concentrate on getting services to people.

At present, a Congressional moratorium on implementation of 1973 regulations is due to expire on January 1, 1975. The amendments would extend this moratorium until July 1, the effective date of the proposed program changes. This change in date is important so that States can plan their programs effectively.

The continuance of the fiscal ceiling on expenditures at \$2.5 billion is an important anti-inflation measure, even though services expenditures are currently running at \$1.6 billion, well below the limit.

Several major features of the amendments are improvements over the current program. The change in eligibility standards for services, from welfare-relatedness to an income basis, would more equitably target services to lower income groups in an administratively feasible, less arbitrary fashion. Needy persons, such as the working poor, who may fail to qualify for categorical programs, would be eligible for services if a State wished. Income levels would be set so as to include those individuals, such as the aged, disabled, and retarded, whose needs are great.

The new services goals would direct the program to community-based and home-based care and services. This emphasis on community-based services is in line with the Department's priorities. The bill contains several important prohibitions against Federal reimbursement under the program for certain specified expenditures, such as facilities construction and services that fall under other Federal programs.

The system by which States would be held accountable for the implementation of the social services program is a positive step forward. Rather than Federal control and approval for specific services plans, States will now have to have a public planning process and make their reports, evaluations and audits public. In this way, citizens could voice their needs, review the progress of the program, and insure an equitable allocation of resources. As a result, social services will be more responsive to the needs of the people.

The bill requires compliance with the 1968 Interagency Day Care Requirements. We recognize that there are problems with these regulations and that a re-examination is worthwhile. Therefore, we welcome the mandate written into the bill to evaluate the appropriateness of the requirements and to make recommendations for modification to Congress by July, 1977.

Honorable Russell B. Long - Page 5

We therefore recommend that the bill be favorably considered during this session of Congress, as speedy passage is essential to the orderly development of social services programs for those in need.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program and enactment of this legislation would be consistent with the objectives of the Administration.

Sincerely,

/s/ Caspar W. Weinberger

Secretary

Impact of H.R. 17045

| | 1975 | | 1976 | |
|--------------------------|-----------------------|--------------------------------|-------------------------------|---------------------------|
| | <u>Current Budget</u> | <u>Impact of Enrolled Bill</u> | <u>Presidential Allowance</u> | <u>Impact of Bill</u> |
| Social Services | 1,806 | 1,806 | 1,921 | 1,937 <u>2/</u> <u>1/</u> |
| State and Local Training | 19 | 33 | 30 | 60 <u>1/</u> |

1/ Current FY 1976 estimates may change due to subsequent State reporting information.

2/ Reflects additional \$16 million for reallocation to Guam, Puerto Rico and the Virgin Islands.

STATEMENT BY THE PRESIDENT

Although I have today signed H.R. 17045, I am pleased with most of its provisions, but concerned about others.

The provisions concerning the Federal-State partnership program for social services successfully concludes many long months of negotiations among the Congress; the Department of Health, Education, and Welfare; governors; State administrators; and spokesmen for producers and consumers. Ending a long impasse, the efforts of all exemplify my call for communication, cooperation, conciliation and compromise when I assumed the office of President.

The second element of this bill involves the collection of child support payments from absent parents. I strongly agree with the objectives of this legislation.

In pursuit of this objective, however, certain provisions of this legislation go too far by injecting the Federal Government into domestic relations. Specifically, provisions for use of the Federal courts, the tax collection procedures of the Internal Revenue Service and excessive audit requirements are an undesirable and an unnecessary intrusion of the Federal Government into domestic relations. They are also an undesirable addition to the workload of the Federal courts, the IRS and the Department of Health, Education, and Welfare Audit Agency. Further, the establishment of a parent locator service in the Department of Health, Education, and Welfare with access to all Federal records raises serious privacy and administrative issues. I believe that these defects should be corrected in the next Congress and I will propose legislation to do so.



I am particularly pleased that this legislation follows a desirable trend in Federal-State relations. It will improve the results of programs previously hampered by unrealistic assumptions of Federal review and control. Those decisions related to local conditions and needs will be made at the State level, while Federal responsibilities are clearly delineated. Indeed, the interests of not only the Federal and State governments, but also producers and consumers are recognized and protected. I also believe that this new legislation significantly improves program accountability and focuses funds on those most in need of services.

In summary, I regard the social services provisions as a major piece of domestic legislation and a significant step forward in Federal-State relations.

The second element of this bill involves the collection of child support payments from absent parents. I strongly agree with the objectives of this legislation. ~~Absent parents should not be allowed to escape their financial responsibilities to the detriment of their children and thereby add their children to the welfare rolls. Some of the provisions of this legislation appropriately strengthen the requirements on and incentives for States to aggressively enforce child support obligations.~~

In pursuit of this worthy objective, however, certain provisions of this legislation go too far by ^{injecting} ~~inserting~~ the Federal Government into ~~the~~ domestic relations. Specifically, ~~the~~ provisions for use of the Federal courts, the tax collection procedures of the Internal Revenue Service and excessive audit requirements are an undesirable and ^{an} ~~unnecessary~~ intrusion of the Federal Government ^{into domestic relations.} ~~and are clearly an~~ undesirable addition to the workload of the Federal courts, the IRS and the Department of Health, Education, and Welfare Audit Agency. Further, the establishment of a parent locator service in the Department of Health, Education, and Welfare with access to all Federal records raises ~~both~~ serious privacy and administrative issues. I believe that these defects should be corrected in the next Congress and I will propose legislation to do so.

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STATEMENT BY THE PRESIDENT

Although I have today signed H.R. 17045, I am pleased with most of its provisions, but concerned about others.

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In summary, I regard the social services provisions as a major piece of domestic legislation and a significant step forward in Federal-State relations.

DRAFT SIGNING STATEMENT

I have signed today H.R. 17045 with gratification and pleasure about most of its provisions, though serious concerns about a few of them.

The provisions of the bill concerning the Federal-State partnership program for social services brings to successful conclusion many long months of negotiations among the Congress; the Department of Health, Education, and Welfare; governors; State administrators; and many spokesmen for providers and consumers. Ending a long impasse, the efforts of all exemplify my call for cooperation, communications, conciliation and compromise when I assumed the office of President.

I am particularly pleased that this landmark legislation follows a desirable trend in Federal-State relations, and establishes the means for improving the results of programs previously obscured by unrealistic assumptions of Federal review and control as a categorical grant program. Those decisions which should be made in terms of local conditions and needs are to be made at the State level, while those responsibilities which should be Federal are clearly delineated. Indeed, the interests of not only the Federal and State governments, but also providers and consumers are recognized and protected. I also believe that this new legislation significantly improves program accountability and the focusing of funds on those most in need of services.

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