

104TH CONGRESS  
2D SESSION

# H. R. 3362

To increase access of State child support enforcement agencies to certain financial information of noncustodial parents, and to encourage States to improve their enforcement of child support obligations.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1996

Mrs. MALONEY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To increase access of State child support enforcement agencies to certain financial information of noncustodial parents, and to encourage States to improve their enforcement of child support obligations.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Support Enforce-  
5 ment Improvements Act of 1996”.

1 **SEC. 2. NONLIABILITY FOR DEPOSITORY INSTITUTIONS**  
2 **PROVIDING FINANCIAL RECORDS TO STATE**  
3 **CHILD SUPPORT ENFORCEMENT AGENCIES**  
4 **IN CHILD SUPPORT CASES.**

5 (a) IN GENERAL.—Notwithstanding any other provi-  
6 sion of Federal or State law, a depository institution shall  
7 not be liable under any Federal or State law to any person  
8 for disclosing any financial record of an individual to a  
9 State child support enforcement agency attempting to es-  
10 tablish, modify, or enforce a child support obligation of  
11 such individual.

12 (b) PROHIBITION OF DISCLOSURE OF FINANCIAL  
13 RECORD OBTAINED BY STATE CHILD SUPPORT EN-  
14 FORCEMENT AGENCY.—A State child support enforcement  
15 agency which obtains a financial record of an individual  
16 from a depository institution pursuant to subsection (a)  
17 may disclose such financial record only for the purpose  
18 of, and to the extent necessary in, establishing, modifying,  
19 or enforcing a child support obligation of such individual.

20 (c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLO-  
21 SURE.—

22 (1) DISCLOSURE BY STATE OFFICER OR EM-  
23 PLOYEE.—If any officer or employee of a State  
24 knowingly, or by reason of negligence, discloses a fi-  
25 nancial record of an individual in violation of sub-  
26 section (b), such individual may bring a civil action

1 for damages against such State in a district court of  
2 the United States.

3 (2) NO LIABILITY FOR GOOD FAITH BUT ERRO-  
4 NEOUS INTERPRETATION.—No liability shall arise  
5 under this subsection with respect to any disclosure  
6 which results from a good faith, but erroneous, in-  
7 terpretation of subsection (b).

8 (3) DAMAGES.—In any action brought under  
9 paragraph (1), upon a finding of liability on the part  
10 of the defendant, the defendant shall be liable to the  
11 plaintiff in an amount equal to the sum of—

12 (A) the greater of—

13 (i) \$1,000 for each act of unauthor-  
14 ized disclosure of a financial record with  
15 respect to which such defendant is found  
16 liable; or

17 (ii) the sum of—

18 (I) the actual damages sustained  
19 by the plaintiff as a result of such un-  
20 authorized disclosure; plus

21 (II) in the case of a willful dislo-  
22 sure or a disclosure which is the re-  
23 sult of gross negligence, punitive dam-  
24 ages; plus

25 (B) the costs of the action.

1 (d) DEFINITIONS.—For purposes of this section:

2 (1) The term “depository institution” means—

3 (A) a depository institution, as defined by  
4 section 3(c) of the Federal Deposit Insurance  
5 Act;

6 (B) an institution-affiliated party, as de-  
7 fined by section 3(u) of such Act; and

8 (C) any Federal credit union or State cred-  
9 it union, as defined by section 101 of the Fed-  
10 eral Credit Union Act, including an institution-  
11 affiliated party of such a credit union, as de-  
12 fined by section 206(r) of such Act.

13 (2) The term “financial record” has the mean-  
14 ing given such term by section 1101(2) of the Right  
15 to Financial Privacy Act of 1978.

16 (3) The term “State child support enforcement  
17 agency” means a State agency which administers a  
18 State program for establishing and enforcing child  
19 support obligations.

20 **SEC. 3. ACCESS TO AND USE OF CONSUMER REPORTS BY**  
21 **STATE CHILD SUPPORT ENFORCEMENT**  
22 **AGENCIES IN CHILD SUPPORT CASES.**

23 (a) IN GENERAL.—Section 604 of the Fair Credit  
24 Reporting Act (15 U.S.C. 1681b) is amended by adding  
25 at the end the following:

1       “(4) To a State child support enforcement agency  
2 that is seeking to establish, modify, or enforce a child sup-  
3 port obligation against the consumer, if—

4               “(A) the paternity of the consumer for the child  
5 to which the obligation relates has been established  
6 or acknowledged by the consumer in accordance with  
7 State laws under which the obligation arises (if re-  
8 quired by those laws); and

9               “(B) the State child support enforcement agen-  
10 cy—

11                       “(i) before obtaining the consumer report,  
12 provides written notice to the consumer that the  
13 State agency intends to obtain a consumer re-  
14 port on the consumer; and

15                       “(ii) certifies to the consumer reporting  
16 agency that—

17                               “(I) the requirement in subparagraph  
18 (A) has been fulfilled (if applicable); and

19                               “(II) the notice required by clause (i)  
20 has been provided.”.

21       (b) STATE CHILD SUPPORT ENFORCEMENT AGENCY  
22 DEFINED.—Section 603 of such Act (15 U.S.C. 1681a)  
23 is amended by adding at the end the following new sub-  
24 section:

1       “(k) The term ‘State child support enforcement agen-  
2 cy’ means a State agency which administers a State pro-  
3 gram for establishing and enforcing child support obliga-  
4 tions.”.

5 **SEC. 4. HEALTH CARE SUPPORT.**

6       (a) INCLUSION IN CHILD SUPPORT ORDERS.—

7           (1) IN GENERAL.—Section 466(a) of the Social  
8 Security Act (42 U.S.C. 666(a)) is amended by in-  
9 serting after paragraph (11) the following:

10           “(12) Not later than the beginning of the 9th  
11 calendar month that begins after the date the Sec-  
12 retary prescribes final regulations as provided for in  
13 section 467(d)(2):

14           “(A) Procedures which require any child  
15 support order, issued or modified by a court or  
16 administrative agency of the State on or after  
17 the effective date of guidelines established by  
18 the State under section 467(d), to provide for  
19 coverage of the health care costs of the child in  
20 accordance with such guidelines.

21           “(B) Procedures which require the exped-  
22 ited consideration and disposition of any alle-  
23 gation of noncompliance with an obligation to  
24 cover the health care costs of a child imposed

1           under a child support order issued or modified  
2           in the State.”.

3           (2) STATE GUIDELINES.—Section 467 of such  
4           Act (42 U.S.C. 667) is amended by adding at the  
5           end the following:

6           “(d)(1) Not later than the beginning of the 9th cal-  
7           endar month that begins after the date the Secretary pre-  
8           scribes final regulations in accordance with paragraph (2),  
9           each State, as a condition for having its State plan ap-  
10          proved under this part, must establish guidelines for the  
11          coverage of the health care costs of children pursuant to  
12          child support orders issued or modified in the State, which  
13          guidelines shall create a streamlined process that meets  
14          the minimum standards established by the Secretary in  
15          such regulations.

16          “(2)(A) The Secretary shall promulgate regulations  
17          which set forth minimum standards that any set of guide-  
18          lines established pursuant to paragraph (1) must meet in  
19          providing for the coverage of the health care costs of chil-  
20          dren pursuant to child support orders issued or modified  
21          in the State, including—

22                  “(i) the contents of such an order with respect  
23                  to the coverage of such costs;

24                  “(ii) the distribution of responsibility for such  
25                  costs;

1           “(iii) to the extent that such costs are to be  
2 covered through health insurance—

3           “(I) the provision of such insurance;

4           “(II) the payment of insurance claims; and

5           “(III) the rights of the noncustodial parent  
6 and the custodial parent to insurance informa-  
7 tion;

8           “(iv) the circumstances under which a provider  
9 of health insurance may or may not deny coverage  
10 to a child who is the subject of such an order;

11           “(v) penalties to be imposed on providers of  
12 health insurance who fail to comply with the guide-  
13 lines; and

14           “(vi) how changes in the circumstances of the  
15 noncustodial parent and the custodial parent are to  
16 be taken into account with respect to the coverage  
17 of such costs.

18           “(B) In developing such standards, the Secretary  
19 shall ensure that, in establishing guidelines pursuant to  
20 paragraph (1), the State considers the following matters  
21 in the following order of importance:

22           “(i) The best interests of the child.

23           “(ii) The financial and other circumstances of  
24 the parents of the child.

25           “(iii) Cost-effectiveness.

1       “(3) The preceding subsections of this section shall  
2 apply in like manner to the guidelines established pursu-  
3 ant to this subsection.”.

4           (3) REGULATIONS.—

5           (A) PROPOSED REGULATIONS.—Within 9  
6 months after the date of the enactment of this  
7 Act, the Secretary of Health and Human Serv-  
8 ices shall issue proposed regulations to imple-  
9 ment the amendments made by this subsection.

10          (B) FINAL REGULATIONS.—Within 14  
11 months after the date of the enactment of this  
12 Act, the Secretary of Health and Human Serv-  
13 ices shall issue final regulations to implement  
14 the amendments made by this subsection.

15          (b) INCLUSION IN INCENTIVE PAYMENTS PROGRAM  
16 OF DEPENDENT HEALTH INSURANCE PROVIDED DUE TO  
17 SUCCESSFUL ENFORCEMENT.—

18           (1) IN GENERAL.—Section 458(b) of the Social  
19 Security Act (42 U.S.C. 658(b)) is amended by add-  
20 ing at the end the following:

21       “(5)(A) For purposes of this section, the successful  
22 enforcement by the State of a provision of a support order  
23 requiring an absent parent to obtain health insurance for  
24 1 or more children shall be considered the collection of

1 support from the absent parent, without regard to the  
2 means by which such support is provided.

3 “(B) The amount of support collected in any case in  
4 which the State successfully enforces a provision of a sup-  
5 port order requiring an absent parent to obtain health in-  
6 surance for 1 or more children shall be the savings to the  
7 State from the provision of such health insurance to such  
8 children, as determined in accordance with a health insur-  
9 ance savings methodology adopted by the State in accord-  
10 ance with regulations prescribed by the Secretary.”.

11 (2) REGULATIONS.—Within 6 months after the  
12 date of the enactment of this Act, the Secretary of  
13 Health and Human Services shall prescribe such  
14 regulations as may be necessary to implement the  
15 amendment made by paragraph (1).

16 (3) STUDY; REPORT.—

17 (A) STUDY.—The Secretary of Health and  
18 Human Services shall conduct a study to deter-  
19 mine the incentives that should be provided to  
20 encourage States to enforce obligations of non-  
21 custodial parents to pay (and obtain medical in-  
22 surance coverage with respect to) the reason-  
23 able and necessary health and dental expenses  
24 of the children to whom the noncustodial par-  
25 ents owe such obligations.

1 (B) REPORT.—Not later than 12 months  
2 after the date of the enactment of this Act, the  
3 Secretary of Health and Human Services shall  
4 submit to the Committee on Ways and Means  
5 of the House of Representatives and the Com-  
6 mittee on Finance of the Senate the results of  
7 the study required by subparagraph (A).

8 **SEC. 5. ANNUAL REPORTS ON STATE COMPLIANCE WITH**  
9 **TIME LIMITS WITHIN WHICH STATE MUST**  
10 **PROVIDE CERTAIN CHILD SUPPORT ASSIST-**  
11 **ANCE.**

12 Section 452(a)(10) of the Social Security Act (42  
13 U.S.C. 652(a)(10)) is amended—

- 14 (1) in subparagraph (H), by striking “and”;
- 15 (2) in subparagraph (I), by striking the period  
16 and inserting “; and”; and
- 17 (3) by inserting after subparagraph (I) the fol-  
18 lowing:
- 19 “(J) compliance, by State, with the stand-  
20 ards established pursuant to subsections (h)  
21 and (i).”.

1 **SEC. 6. WAGES WITHHELD BY EMPLOYERS TO PAY CHILD**  
2 **SUPPORT OBLIGATIONS REQUIRED TO BE**  
3 **PAID TO STATE WITHIN 10 DAYS; LATE PAY-**  
4 **MENT PENALTY IMPOSED ON EMPLOYERS.**

5 (a) IN GENERAL.—Section 466(b)(6)(A) of the Social  
6 Security Act (42 U.S.C. 666(b)(6)(A)) is amended—

7 (1) in clause (i), by inserting “within 10 days  
8 after the payment of such wages” before “to the ap-  
9 propriate agency”; and

10 (2) by adding at the end the following:

11 “(iii) The State must require any employer who  
12 fails to make any payment required in accordance  
13 with clause (i) within the 10-day period described  
14 therein to pay the State a \$1,000 penalty. The State  
15 must expend all penalties collected in accordance  
16 with this clause for the operation of the State plan  
17 approved under section 454, not later than the end  
18 of the calendar quarter following the calendar quar-  
19 ter in which collected.”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2) of this subsection, the amendments made  
23 by subsection (a) of this section shall take effect on  
24 the date of the enactment of this Act and apply to  
25 wages paid on or after such date and payments  
26 under part D of title IV of the Social Security Act

1 for calendar quarters beginning on or after such  
2 date.

3 (2) DELAY PERMITTED IF STATE LEGISLATION  
4 REQUIRED.—In the case of a State plan approved  
5 under section 454 of the Social Security Act which  
6 the Secretary of Health and Human Services deter-  
7 mines requires State legislation (other than legisla-  
8 tion appropriating funds) in order for the plan to  
9 meet the additional requirements imposed by the  
10 amendments made by subsection (a) of this section,  
11 the State plan shall not be regarded as failing to  
12 comply with the requirements of such section 454  
13 solely on the basis of the failure of the plan to meet  
14 such additional requirements before the 1st day of  
15 the 1st calendar quarter beginning after the close of  
16 the 1st regular session of the State legislature that  
17 begins after the date of the enactment of this Act.  
18 For purposes of the previous sentence, in the case  
19 of a State that has a 2-year legislative session, each  
20 year of such session shall be deemed to be a sepa-  
21 rate regular session of the State legislature.

22 **SEC. 7. NATIONAL PARENT LOCATOR NETWORK.**

23 Section 453 of the Social Security Act (42 U.S.C.  
24 653) is amended by adding at the end the following:

1       “(g) The Secretary shall expand the Parent Locator  
2 Service to establish a national network based on the com-  
3 prehensive statewide child support enforcement systems  
4 developed by the States, to—

5               “(1) allow each State to—

6                       “(A) locate any absent parent who owes  
7 child support, for whom a child support obliga-  
8 tion is being established, or for whom an order  
9 for visitation is being enforced, by—

10                               “(i) accessing the records of other  
11 State agencies and sources of locate infor-  
12 mation directly from one computer system  
13 to another; and

14                               “(ii) accessing Federal sources of lo-  
15 cate information in the same fashion;

16                       “(B) access the files of other States to de-  
17 termine whether there are other child support  
18 orders involving the same absent parent, and  
19 obtain the details of any such order;

20                       “(C) provide for both on-line and batch  
21 processing of locate requests, with on-line ac-  
22 cess restricted to cases in which the information  
23 is needed immediately (for such reasons as  
24 court appearances) and batch processing used

1 to ‘troll’ data bases to locate individuals or up-  
2 date information periodically; and

3 “(D) direct locate requests to individual  
4 States or Federal agencies, broadcast requests  
5 to selected States, or broadcast cases to all  
6 States when there is no indication of the source  
7 of needed information;

8 “(2) provide for a maximum of 48-hour turn-  
9 around time for information to be broadcast and re-  
10 turned to a requesting State; and

11 “(3) provide ready access to courts of the infor-  
12 mation on the network by location of a computer  
13 terminal in each court.”.

○