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Representing Battered Women During Welfare Reform

Twice Victimized -- Domestic Violence and Welfare "Reform"

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I. Introduction

The extent of domestic violence in our society and its impact on victims are well documented. /1/ Domestic violence must be prevented and reduced. Strong public policy to this end is currently reflected in both federal and state legislation /2/ generally limited to criminal and civil codes that outline procedures for police departments and the courts with respect to domestic violence situations (e.g., presumptive or mandatory arrest, the issuance of orders of protection, antistalking laws, child custody issues). But domestic violence affects every aspect of its victims' lives, and its impact reverberates throughout our society, including our welfare system. /3/ This should not be surprising since domestic violence often makes women poor and keeps them poor. /4/ Only recently, however, has the relationship between domestic violence and the receipt of public assistance, particularly Aid to Families with Dependent Children (AFDC), been documented, and only recently, too, have its public policy implications been considered. /5/

The prevalence of domestic violence in the lives of AFDC recipients is startling. Research confirms what domestic violence advocates and welfare-to-work service providers have observed for years -- between 50 percent and 80 percent of women receiving AFDC nationwide are current victims of domestic violence. /6/ This fact alone should drastically alter the tenor of the welfare reform debate among our representatives in both the executive and legislative branches on the federal and state level. The current emphasis on policies that blame and punish women and their children for being poor and for their alleged failure to take responsibility for their actions is misplaced. Policies that provide a safe harbor for women and their children experiencing varying levels of crisis as a result of current or past domestic violence victimization must take priority. The link between alternative means of financial support and dependency upon the abuser is strong. Without an entitlement to cash and other forms of public assistance, women may not be able to extricate themselves and their children from violent situations. Women often stay with or return to their abusers because they lack the resources to support themselves and their children. Policies that limit entitlement to public assistance increase dependency, which increases domestic violence.

Like it or not, AFDC plays a key role in saving battered women's lives. /7/ As meager as it is, a monthly AFDC check provides the safety net necessary to allow women and children to escape violent situations and to stay safe. Unfortunately, little or no awareness of or sensitivity to this issue is reflected in most of the proposed federal and state welfare legislation or state waiver requests of current federal welfare law to the Department of Health and Human Services (HHS). /8/ Many of the policies falling under the rubric of "welfare reform" not only ignore the reality of domestic

violence among the AFDC population but also punish victims for being victims. Unrealistic requirements, harsh penalties, and misguided incentives on states put added pressure on domestic violence victims to choose between personal safety and economic support. These policies also increase the risk of abuse.

The federal welfare conference bill, H.R. 4, which was vetoed by the President on January 9, 1996, contained a number of harmful provisions addressed in this article. /9/ Many of these provisions are already incorporated in several state welfare programs under HHS waivers and are likely to be included in future incarnations of federal welfare reform legislation. Further implementation of these policies will result in negative consequences for most AFDC recipients for a variety of reasons but will have particularly devastating effects on most of the 50 percent to 80 percent of AFDC recipients who are also victims of domestic violence. /10/

The following discussion reviews provisions of H.R. 4 that would limit entitlement to public assistance and thereby create potentially grave consequences for domestic violence victims. If these provisions become law, states may choose to implement them through state law and/or required state plans in ways that decrease the danger and the damage to women and their children. /11/ Some suggestions are offered.

II. The Child Exclusion Policy

H.R. 4 would have denied additional cash benefits for a child born to a family already receiving cash assistance or if assistance was received at any time during the ten-month period ending with the birth of a child. /12/ Firstborn children and children born as a result of rape or incest were excepted from this provision. States were entitled to "opt out" of the child exclusion provision by passing legislation specifically exempting the state. If states did nothing, child exclusion would become the law automatically.

This provision wrongly assumed that women get pregnant to increase their benefit amount in spite of mounting social science research finding little or no correlation between the level of welfare benefits and birthrates. /13/ It also failed to deal adequately with the fact that domestic violence often includes rape and incest. /14/

Although the federal legislation allowed exemptions to the child exclusion policy for children born as a result of rape or incest, advocates who have dealt with the exemption issue as part of the AFDC paternity establishment and child support cooperation eligibility requirement know this is not a simple issue in a welfare system that is often premised on the belief that women do not tell the truth about these matters. What should be a fairly straightforward procedure can dissolve into an unnecessary and maddeningly complex ordeal for victims. /15/ For states choosing not to opt out of the child exclusion policy, four areas of concern emerge.

First, it would be up to states to define rape and incest. And what is rape? Is it "real" rape with a stranger as the perpetrator and the use of physical force, not just threats? /16/ Does it include marital rape? Is rape in this civil law context different from a state criminal code’s definition? Should it be?

Second, states would determine the type of corroboration necessary as proof of rape or incest. Must there be a police report? A medical report within 24 hours of the incident? Would evidence necessary to convince a court of law to convict the rapist be enough to convince a welfare department that a rape occurred?

Third, to whom and under what circumstances must a rape or incest survivor reveal this most personal of tragedies? To a public assistance caseworker with no training in domestic violence issues in a crowded office with no privacy, no guarantee of confidentiality, and no support systems in place to help her deal with the consequences of such an intrusion into her privacy?

Fourth, when and how would AFDC applicants and recipients be given notice of the exemption to the child exclusion policy for children born as a result of rape or incest? Applicants and recipients must be given adequate notice of exception and due process if denied an increase in benefits for the additional child. At the very least, adequate notice must be comprehensible oral and written notice when the state agency becomes aware that a woman is pregnant or at the time the child is added to the household, whichever comes first. /17/

These concerns are real. Women and girls vastly underreport rape and incest. Studies indicate that victims often do not tell any third party about sexual assault. Fear, guilt, and shame prevent women from reporting sexual assault. /18/ Sexual assault victims often do not want their family, friends, or the media to find out. /19/ Only 16 percent of women who are sexually assaulted report the crime to the police. /20/ The National Women's Study reports that victims had a medical examination in only 17 percent of all rape cases. In only 30 percent of these cases were doctors informed that a rape had occurred. /21/ In cases where the women received a medical examination, only 40 percent had the examination within 24 hours of the assault. Failure to disclose sexual assault to doctors and delays of more than 24 hours are likely to lead to inconclusive medical determinations of sexual assault. Moreover, because many women do not suffer serious physical injuries during sexual assault, reports often do not result in reliable medical determinations as to whether an assault occurred. /22/ Incidents that are perpetrated by intimate offenders are unlikely to be reported. /23/

Expecting untrained caseworkers to probe victims about their sexual assault in an inappropriate setting is another violation of the victim. How many men victimized by rape or incest would reveal that information to a stranger who was not adequately trained in dealing with these issues, who did not have the victim's interests at heart and may, in fact, have diametrically opposed interests (i.e., reducing the caseload, reducing the rate of illegitimacy among recipients, increasing the rate of paternities established and child support orders entered, increasing the rate of employment among recipients, etc.) and without, at the very least, the assurance of confidentiality?

In combination with incentives for reducing a state's illegitimacy ratio and abortion rate, the child exclusion policy would further pressure states to define narrowly the exemptions for children born as a result of rape and incest and to demand third-party corroboration that does not exist in most instances of rape and incest (not just among the AFDC population). In addition, the child exclusion policy would do nothing to protect victims of rape and incest from further victimization by the welfare system, its employees and contractors, and its misguided policies. /24/

To overcome some of these problems, advocates should review their states' criminal code and civil or criminal domestic violence statute to determine whether definitions of the terms that cover incidents of incest and rape, and the evidence necessary to convict an offender of these crimes, are useful. Women's advocates have been writing laws and outlining practices and procedures concerning violence against women issues for years, and many good examples are available in several states.

Advocates should make sure the terms for incest and rape are not so narrow or vague that women who are victims are improperly denied assistance. For example, current federal regulations limit the good-cause exemptions for cooperation with paternity establishment and child support enforcement proceedings to children "conceived as a result of incest or forcible rape." /25/ Although not necessarily ideal language, the Illinois Criminal Code uses the terms "sexual assault" and "aggravated sexual assault" instead of "rape" or "forcible rape":

The accused commits criminal sexual assault if he or she [commits an act of sexual penetration]: (1) . . . by the use of force or threat of force; or (2) . . . and the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or (3) . . . with a victim who was under 18 years of age when the act was committed and the accused was a family member; or (4) . . . with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim. /26/

"Family member" means a parent, grandparent or child, whether by whole or half blood or adoption and includes a step-grandparent, step-parent or step-child. "Family member" also means, where the victim is a child under 18 years of age, an accused who has resided in the household with such child continuously for at least one year. /27/

"Force or threat of force" means the use of force or violence, or the threat of force or violence, including but not limited to the following situations: (1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believed that the accused had the ability to execute that threat; or (2) when the accused has overcome the victim by use of superior strength or size, physical restraint or physical confinement. /28/

Aggravated criminal sexual assault [includes] . . . the accused [causing] bodily harm to the victim. . . . /29/

Under Illinois's six-month paternity establishment waiver request, to be excepted from cooperation with paternity establishment and child support enforcement for incest and rape, an AFDC recipient must furnish third-party corroboration. Thus, the Illinois Department of Public Aid puts a greater burden on an AFDC recipient seeking to prove that her child was born as a result of rape or incest than is necessary to convict the offender of the crime in an Illinois court of law. /30/ This is not acceptable. Incest and rape survivors should not be held to an improperly high standard. A woman's confidential statement should be sufficient to establish that her child was born as a result of incest or sexual assault, unless there is an independent, reasonable basis to doubt the veracity of her statement. The information given by the woman regarding the incest or sexual assault should

not be disclosed to any other individual or entity (including the federal government and other state agencies). All documentation produced relating the circumstances under which the child was conceived should prominently display a statement to this effect.

Advocates must work with state welfare agencies to sensitize caseworkers to these issues. At the very least, a good referral system must be put in place to ensure that women are not unfairly denied the additional benefits necessary to care for their newborns.

III. Paternity Establishment and Child Support Provisions

A. Cooperation

Current federal law requires AFDC applicants and recipients to cooperate in establishing paternity and obtaining child support. /31/ The AFDC paternity establishment and child support enforcement program is also referred to as the IV-D program.

Federal regulations define cooperation as providing "verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient . . . or attesting to a lack of information, under penalty of perjury." /32/ If the applicant or recipient is not cooperative, she becomes ineligible for cash benefits and Medicaid, and the AFDC benefit for the family is reduced. /33/ Applicants and recipients are advised that they must cooperate in order to receive AFDC. They may be told of the benefits of cooperation such as establishing future rights to social security, veterans, and other government benefits for the child. But there is no requirement that before cooperating they be advised of the consequences of establishing paternity, such as establishing the father's right to seek visitation and even custody, consequences that can prove fatal for domestic violence victims.

Under H.R. 4, the federal definition of cooperation would have been repealed, and each state would have developed its own definition of cooperation. H.R. 4 would have required states to deny a parent's share of benefits for failure to cooperate and would have permitted states to impose a full-family sanction. /34/

Leaving it to states to define cooperation has already proven hazardous for AFDC recipients in some states. In Massachusetts, about 1,800 families receiving cash assistance were sanctioned because the mothers were unable to give the father's full name and social security number or the father's full name and other specific identifying information. Five children and their mothers filed a class action lawsuit on behalf of themselves and other children subject to sanctions. /35/ Their families had been sanctioned even though the mothers had cooperated fully and had given all the information that they had. The court entered a temporary restraining order stopping the sanctions and reinstating all 1,800 of the families and their children. /36/

In Illinois, a waiver request submitted to HHS and pending approval would establish a statewide demonstration in which cooperation would be defined as requiring AFDC recipients to identify and locate the absent parent within six months of receipt of cash assistance. The custodial parent's inability to give this specific information would be considered a failure or refusal to cooperate.

Sanctions for noncooperation would be expanded to include the termination of cash assistance and Medicaid not only to the parent but also to the child for whom paternity establishment and child support were sought. /37/

B. Good-Cause Exceptions to the Cooperation Requirement

Current federal law allows domestic violence victims and others with good cause the opportunity to request a waiver from cooperating with the AFDC child support enforcement requirement. /38/ Circumstances meriting good-cause exemption from the cooperation requirements include situations in which cooperation is expected to result in physical or emotional harm to the parent or the child for whom support is sought or where the child was conceived as a result of incest or forcible rape. /39/ Proof of good cause includes sworn statements from individuals other than the claimant with knowledge of the circumstances that form the basis for the good-cause exemption. Where a claim is based on anticipation of physical harm, the claimant's statement, if credible, is sufficient. /40/

In practice, this waiver is rarely requested or granted. In FY 1993, of approximately five million AFDC cases nationwide, custodial parents claimed good cause for refusing to cooperate in establishing paternity and securing child support in only 6,585 cases, and only 4,230 of those claims were found valid. /41/ Though it may be reasonable to question the reliability of these very low figures, even if the actual number of good-cause claims requested and found valid were ten times greater than the reported figures, these numbers would still not reflect the extent of domestic violence among the AFDC population. Of course, not every victim of domestic violence wants or needs an exemption from cooperation with paternity establishment and/or child support enforcement. However, these low figures do reflect AFDC recipients' lack of knowledge of their right to an exemption from cooperation. The current law on providing notice is weak and, to compound the problem, state public assistance agencies often fail to provide any notice. /42/

If H.R.4 were to become law, the federal definition of "good cause" would be repealed. Each state, taking into account the best interests of the child, would define good cause and any other exceptions to the state's cooperation requirement. /43/

As in the case of the child exclusion provision, there is great concern that states would define good-cause exemptions, and the evidence required to establish them, so as to require a higher degree of abuse and "official" proof (i.e., police reports, medical records, state agency reports) than under current law. /44/ And there is no assurance about what type of notice, if any, recipients would be given of the opportunity to request an exemption.

For example, Illinois's six-month paternity establishment waiver request would limit the exception that allows aid to be paid when paternity is not established within six months of receipt of cash assistance to circumstances where (1) cooperation was expected to result in physical or emotional harm to the custodial parent and/or child, and formal third-party corroboration (criminal, medical, or state agency report) indicated the alleged father might inflict this harm; or (2) the custodial parent had furnished a birth certificate or medical or law enforcement records indicating the child

was conceived as the result of incest (and the custodial parent attests to fear that the alleged father might inflict physical harm on the custodial parent and/or child), or forcible rape. /45/

To overcome these issues, advocates should examine their state's domestic violence statute to see how abuse is defined and what proof is necessary for a court to enter an order of protection. For example, the Illinois Domestic Violence Act of 1986 defines domestic violence as follows: "[P]hysical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis." /46/

The evidence necessary to substantiate that an order of protection should be entered is generally limited to the sworn statement of the victim.

This language is preferable to the language used to exempt battered women from the 60-month lifetime limit on the receipt of cash assistance in H.R. 4. /47/ And the requirements for corroboration of abuse are less onerous than those demanded in Illinois's paternity establishment waiver request.

C. In-Hospital Paternity Establishment

While the goal of making it easier for parents to establish paternity is good, the push for in-hospital voluntary paternity establishment may be moving too quickly. /48/ No one should be asked to sign an important document with life-long consequences so shortly after giving birth without proper precautions.

First, legal acknowledgment of paternity should not be allowed to take precedence over steps to assure the health and welfare of a new mother and her baby. Second, formal acknowledgment of paternity should not be sought unless both parties have given informed consent. The time between the birth of a child and discharge from the hospital is generally very brief. It is an emotionally charged and physically draining time for the mother. Whether informed consent is truly possible during this time is questionable. Third, in any process seeking formal acknowledgment of paternity, the parties should be furnished detailed information, in both oral and written form, regarding the consequences of the acknowledgment, including the possible disadvantages to establishing paternity such as establishing the father's right to assert custody or visitation or oppose adoption. /49/

Additional protections must be in place for victims of domestic violence. Before approaching the father, a health professional and/or licensed social worker trained in domestic violence issues should conduct a private and confidential interview with the mother to determine if she is a victim of domestic violence and if the abuser is the child's father. If this is the case, the father should not be offered the opportunity to sign an acknowledgment of parentage.

IV. Time Limits

H.R. 4 would have set a maximum 60-month lifetime limit on receipt of cash assistance paid for with federal funds. /50/ States would have been allowed to cut off benefits sooner. If a state determined that a recipient was ready to engage in work or had received cash assistance for 24 months, whichever was earlier, the state could require the recipient to work or lose benefits. /51/

Exemptions included recipients who were minors and not the head of a household or married to the head of the household. In addition, "[t]he State may exempt a family from [the 60-month lifetime limit] by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty." /52/ A hardship exemption for battered women is not present in any other part of the bill. H.R. 4 defined battery or extreme cruelty as:

(1) physical acts that resulted in, or threatened to result in, physical injury to the individual;

(2) sexual abuse;

(3) sexual activity involving a dependent child;

(4) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

(5) threats of, or attempts at, physical or sexual abuse;

(6) mental abuse; or

(7) neglect or deprivation of medical care. /53/

Public assistance must be available so that women and children can leave violent homes before the situation becomes extreme. The bill's use of the term "extreme cruelty" foreshadows a trend toward higher thresholds for the type and degree of abuse that must be experienced to merit an exemption than are now required by most states to obtain a criminal or civil order of protection. /54/ Abuse should not be limited to a narrow interpretation of the seven types of violence listed in H.R. 4.

For some domestic violence victims, the best way to cope with their crisis is to work. For many more, that is not possible. Time limits may be too difficult for most victims of domestic violence to meet. Because victims suffer many types and degrees of harm as a result of domestic violence, each woman must be allowed the time and flexibility necessary to find safety, to begin the healing process, and to become economically self-sufficient. For some women, this may take only months; for others, a few years. For many women, the healing process extends over a lifetime, with good times when it is possible to work, go to school, take care of the children, and get counseling, and bad times when some or all of those things are impossible.

Fifteen percent of the caseload exempted from time-limited benefits is insufficient to cover all battered women receiving benefits, let alone all families enduring other forms of domestic violence and other hardships associated with poverty. This provision ignores that violence against so many impoverished women is prevalent, that violence inflicts harm on its victims, and that violence

makes and keeps many women poor. An entitlement to benefits without time limits is necessary for victims of domestic violence.

V. Mandatory Work Requirements

H.R. 4 would have required that 50 percent of a states' welfare caseload meet the work requirement by October 1, 2001. The minimum number of hours per week to count toward a state's work participation rate would have been 35 hours, of which at least 20 hours per week were attributable to allowable work activities. /55/

Allowable work activities would have included unsubsidized employment, subsidized private or public sector employment, work experience if sufficient private sector employment was not available, on-the-job training, community service programs, up to four weeks of job search and job readiness assistance, education directly related to employment for recipients 20 years of age or younger who did not have a high school diploma or general equivalency diploma, job skills training directly related to employment; and secondary school for a recipient who had not completed secondary school, was a dependent child, or was a household head under 20 years of age. Vocational education would have been permitted but could not exceed 12 months for any individual. In any month, no more that 20 percent of adults in all families could meet the work participation rates through vocational education. /56/

States would have had the option to require custodial parents with children under 12 months of age to work. /57/

The work provisions in H.R. 4 assumed that all welfare recipients are equally capable of functioning at a level at which they could find and maintain employment or attend and successfully complete an education or training program. But domestic violence victims face enormous hurdles to employment and employment-related activities. A victim may be disempowered and physically and emotionally scarred from the abuse; her abuser may disrupt her attempts to work or go to school so that he many remain or regain control of her. /58/ The additional hurdles that domestic violence victims face should not cause them to be penalized. Nor should these hurdles prevent them from starting on the path to recovery and out of poverty.

Moreover, the 20-percent maximum on recipients allowed to engage in vocational education would limit economic opportunities. Without job training, women are often eligible for only low-end, low-skilled, low-wage employment. Enhanced skills leading to higher-wage jobs would better enable women to leave violent situations and stay safe.

VI. Restrictions on the Right to Travel

H.R. 4 would have permitted states to treat differently from other families those moving from another state. /59/ Specifically, a state would have been allowed to apply the rules (including benefit amounts) of the program funded under H.R. 4 in the family's former state of residence if the family had resided in the current state for less than 12 months.

This provision is a deterrent to domestic violence victims, who often must cross state lines to escape abuse. Many abused women have limited economic resources, especially if they must leave home suddenly. Therefore, they often must rely on public assistance benefits. Denying women and their children a minimally adequate benefit amount deemed necessary to survive in the new state by limiting them to a lower benefit amount set by the state they are fleeing would exacerbate the financial hardship they must face. It would increase domestic violence victims' risk of homelessness and malnutrition, as well as the likelihood of their staying with or returning to their abusers. /60/

VII. Conclusion

The "reforms" in H.R. 4, other proposed federal and state welfare legislation, and state waiver requests to HHS will serve only further to abuse victims of domestic violence. Many of these policies will result in the reduction or denial of economic support for poor children and their families. To prevent a second victimization of domestic violence victims, the prevention and reduction of domestic violence must be included as an important goal of any welfare reform legislation.

Footnotes

/1/ See, e.g., Children's Working Group of the Massachusetts Coalition of Battered Women Service Groups, The Children of Domestic Violence (Dec. 1995) (unpublished manuscript); Susan Lloyd, The Effects of Domestic Violence on Female Labor Force Participation (Nov. 1995); Bureau of Justice Statistics, Special Report, National Crime Victimization Survey, Violence Against Women: Estimates from the Redesigned Survey (Aug. 1995) (hereinafter National Crime Victimization Survey); B. Groves et al., Silent Victims: Children Who Witness Violence, 269 JAMA 262 (1993); Lenore E. Walker, The Battered Woman Syndrome (1984); Lenore E. Walker, The Battered Woman (1979).

/2/ See, e.g., The Violence Against Women Act of 1994, Pub. L. No. 103-322, tit. IV, 108 Stat. 1902 -- 55, codified in part at 42 U.S.C. Secs. 13931 -- 40; The Illinois Domestic Violence Act of 1986, 750 ILCS 60/101 et seq.

/3/ See Joan Zorza, Woman Battering: High Costs and the State of the Law, 28 Clearinghouse Rev. 383 (1994).

/4/ Melanie Shepard & Ellen Pence, The Effect of Battering on the Employment Status of Women, 3 Affilia 55 (1988).

/5/ 42 U.S.C. Secs. 601 et seq.

/6/ Jody Raphael, Prisoners of Abuse: Domestic Violence and Welfare Receipt (Apr. 1996) (Clearinghouse No. 51,815); Jody Raphael, Domestic Violence: Telling the Untold Welfare-To-

Work Story (Jan. 30, 1995) (Clearinghouse No. 51,820); Jody Raphael, Chicago Commons West Humboldt Employment Training Center (ETC) Demonstration Literacy Laboratory: A Model Welfare-To-Work Program, A Preliminary Report (1993); Peggy Roper & Gregory Weeks, Washington State Institute for Public Policy, Child Abuse, Teenage Pregnancy, and Welfare Dependency: Is There A Link? (1993).

/7/ "[W]omen's escape from violence in their own homes is dependent, to a great extent, on available financial resources." Martha F. Davis & Susan J. Kraham, Protecting Women's Welfare in the Face of Violence, 22 Fordham L. Rev. 1141, 1153 (1995).

/8/ There are exceptions. The "Family Violence Exemption" amendment to the Senate version of the welfare legislation (H.R. 4, as amended and passed by the Senate on September 19, 1995) did attempt to address the issue of domestic violence and the ability of its victims to comply with the new requirements of welfare reform. Introduced by Sen. Paul Wellstone (D-Minn.), the amendment would allow, but not mandate, states to waive or modify the strict mandates of the welfare bill to address the distinctive needs of economically vulnerable women and families who are living in or fleeing from dangerous homes. The amendment did not survive the joint House-Senate conference committee.
Also, a resolution that expressed the sense of Congress that any welfare reform legislation passed by Congress should protect women experiencing domestic violence was adopted unanimously on May 9, 1996, by the House Budget Committee. The resolution is now part of the FY 1997 budget resolution and will be voted on by the full body. This effort was engineered by Cong. Lucille Roybal-Allard (D-Cal.). Senator Wellstone will circulate his version of the resolution on the Senate side. No further congressional action has been taken at this writing.

Utah's Single Parent Demonstration Project (SPED) takes an individualized approach to welfare reform. SPED emphasizes mutual responsibility of the government and the family. There are no fixed time limits. Case managers have a duty to work with every client, regardless of the barriers she may face, and to provide the needed services, including counseling for domestic violence victims. Individually designed self-sufficiency agreements consider each client's particular barriers. Participation in SPED includes activities which address these various barriers.

Under section 1115(a) of the Social Security Act, the Department of Health and Human Services (HHS) may approve waivers for experimental programs that are likely to assist in promoting the objectives of the Aid to Families with Dependent Children (AFDC) program. 42 U.S.C. Sec. 1315(a).

/9/ H.R. Conf. Rep. No. 430, 104th Cong., 1st Sess. (1995) (conference report to accompany H.R. 4). This bill took its bill number from the initial House of Representatives bill, the Personal Responsibility Act, H.R. 4, 104th Cong., 1st Sess. (1995). H.R. 4, tit. I, Sec. 103, Block Grants to States, amends pt. A, tit. IV (codified at 42 U.S.C. Secs. 601 et seq.).

/10/ Many other important provisions in H.R. 4 and state demonstrations have a negative impact on domestic violence victims by denying them cash and other key supports. These include provisions on noncitizens, Medicaid, and the Food Stamp Program.

/11/ H.R. 4, tit. I, Sec. 103, pt. A, Sec. 402.

/12/ Id.,, pt. A, Sec. 408.

/13/ See Michael C. Laracy, If It Seems Too Good to Be True, It Probably Is: Observations on Rutgers University's Initial Evaluation Findings That New Jersey's Child Exclusion Law Has Not Reduced AFDC Birth Rates . . . Contrary to Previous Claims by Its Supporters (June 21, 1995); Gregory Acs, The Impact of Welfare on Young Women's Childbearing Decisions (1995) (available from the Urban Institute); Joint Statement by 76 Researchers Re: Welfare and Out-of-Wedlock Births (June 23, 1994); Congressional Budget Office, Sources of Support for Adolescent Mothers 43 (1990) ("[s]tudies of the effects of AFDC on the fertility of female teenagers find no evidence that benefit levels encourage childbearing"); Mark Rank, Fertility Among Women on Welfare: Incidence and Determinants, 54 Am. Socio. Rev. 296 -- 403 (Apr. 1989); David Ellwood & Mary Jo Bane, The Impact of AFDC on Family Structure and Living Arrangements (1984) (Working Paper No. 92A-82).

/14/ "Each year [1992 and 1993] an estimated 500,000 women were the victims of some form of rape or sexual assault. Thirty-four percent of these victimizations were completed rapes, and an additional 28 percent were attempted rapes. . . . Friends and acquaintances committed about half of all rapes and sexual assaults. Intimate offenders (husband, ex-husband, boyfriend or ex-boyfriend) committed an additional 26 percent. Altogether, offenders known to the victim accounted for about three-quarters of all rapes and sexual assaults against women. Strangers committed 18 percent of such assaults." National Crime Victimization Survey, supra note 1, at 6.

Several studies report a high association between teenage pregnancy and sexual abuse. From one-half to two-thirds of young mothers surveyed had been sexually molested prior to their first pregnancy. Over 40 percent had been the victims of rape. As many as 23 percent became pregnant as a direct result of rape. Previously victimized girls may be more likely to get pregnant intentionally -- in one survey sexual abuse victims were twice as likely as nonvictims to say they wanted to have a baby.

Patterns of adult abuse of teenage girls leading to pregnancies emerge from the results. Only 29 percent of babies born to teen mothers are fathered by teenagers, and 71 percent are fathered by men over 20. One survey found that 46 percent of abusers were at least ten years older than their victims. Adult men are particularly likely to be the fathers of children born to very young girls. Further, in one study of teen mothers, more than one-quarter of the victims were abused by male family members -- fathers, grandfathers, brothers, uncles, and others. Only a small number reported that they were abused by strangers. Fathers, grandfathers, brothers, and uncles accounted for almost 38 percent of 1993 Illinois sexual abuse cases. The Ounce of Prevention Fund, Heart to Heart: An Innovative Approach to Preventing Child Sexual Abuse (1995); Kathleen Quinn, Teen Pregnancy or Adult Abuse?, Coalition Commentary, Spring 1995 (available from the Illinois Coalition Against Sexual Assault).

/15/ See section III, infra, for a discussion of paternity establishment and child support enforcement.

/16/ See Susan Estrich, Real Rape (1987).

/17/ See National Center on Women and Family Law, Inc., The "Good Cause" Exception to the Cooperation Requirement for Applicants for AFDC Child Support (1995) (Item No. 169) for examples of notices of the right to claim a good-cause exception.

/18/ Judith Musick, Young, Poor, and Pregnant: The Psychology of Teenage Motherhood (1993). In a survey funded by the Ounce of Prevention Fund, 39 percent of the teens reported that they never told anyone about the sexual abuse they experienced before the survey. Id.

/19/ National Victim Center, Rape in America: A Report to the Nation 4 (1992). Seventy-one percent of rape victims were concerned that their family would find out, 68 percent feared that others outside their family would find out, and 50 percent had concerns that the media would publish their names.

/20/ Id. Rape remains the most underreported violent crime in America.

/21/ Id.

/22/ Id. at 4.

/23/ National Crime Victimization Survey, supra note 1, at 1.

/24/ H.R. 4, tit. I, Sec. 103, pt. A, Sec. 403.

/25/ 45 C.F.R. Sec. 232.42(a)(2)(i).

/26/ 720 ILCS 5/12-13. Sexual assault involving a family member (brother, sister, father, mother, stepfather, or stepmother, whether by whole or half-blood or adoption) and a woman over the age of 18 is defined as "incest," consistent with the Illinois Criminal Code. Id. at 5/11-11.

/27/ Id. at 5/12-12(c).

/28/ Id. at 5/12-12(d).

/29/ Id. at 5/12-14(2). "'Bodily harm' means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence." Id. at 5/12-12(b).

/30/ Illinois Department of Public Aid, State of Illinois Request for Federal Waiver for the Six Month Paternity Establishment Demonstration (submitted July 14, 1995) (Clearinghouse No. 51,150). The Department of Public Aid published emergency regulations at 19 Ill. Reg. 15337 -- 554, 15519 (Nov. 13, 1995) (amending Ill. Admin. Code tit. 89, Secs. 160, 160.62 (i)(2)). The emergency regulations affected by the state's pending waiver request have not yet been implemented.

The Illinois Supreme Court has ruled that a victim's testimony does not need to be corroborated for a criminal defendant to be found guilty of a sex offense. In Illinois v. Schott, 582 N.E.2d 690 (Ill. 1991), the court affirmed the conviction of a man for taking aggravated indecent liberties with his stepdaughter. In doing so, the court abolished the former requirement that a sex-offense victim's testimony be clear and convincing or "substantially corroborated" in order to sustain a sex-offense conviction and replaced it with the "reasonable doubt" test used in all other criminal cases. The court noted that the testimony of no other category of crime victim is held to be automatically suspect or to require additional proof. The corroboration requirement, it said, was a "sexist anachronism." Id. at 695 (quoting Illinois v. Roy, 201 Ill. App. 3d 166, 185 (1990)).

/31/ 42 U.S.C. Secs. 602(a)(26), 654 et seq. (Title IV-D).

/32/ 45 C.F.R. Sec. 232.12(b)(1) & (3).

/33/ Id. Sec. 232.12(d).

/34/ H.R. 4, tit. I, Sec. 103, pt. A, Sec. 408(a)(3)(A) & (B).

/35/ Doe v. Gallant, No. 96-1307-D (Mass. Super. Ct. Suffolk County filed Mar. 11, 1996) (Clearinghouse No. 51,056).

/36/ Id. (prelim. inj. entered Apr. 19, 1996); see also Deborah Harris, Massachusetts Law Reform Institute, Statement in Opposition to Sections 1 and 2 of H.5859 (Mar. 1996); Press Advisory, Massachusetts Law Reform Institute (Apr. 1996) (Clearinghouse No. 50,100).

/37/ Illinois Department of Public Aid, State of Illinois Request for Federal Waiver for the Six Month Paternity Establishment Demonstration (submitted July 14, 1995) (Clearinghouse No. 51,150); 19 Ill. Reg. 15337 -- 554, 15492 -- 20 (Nov. 13, 1995) (amending Ill. Admin. Code tit. 89, Sec. 160).

/38/ 42 U.S.C. Sec. 602(a)(26)(B) ("good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed . . ."); 45 C.F.R. Secs. 232.40 -- .49 (standards prescribed by HHS); see also National Center on Women and Family Law, The "Good Cause" Exception to the Cooperation Requirement for Applicants for AFDC Child Support (1995) (Item No. 169).

/39/ 45 C.F.R. Sec. 232.42.

/40/ Id. Sec. 232.43.

/41/ U.S. Dep't of Health & Human Servs., Child Support Enforcement: Eighteenth Annual Report to Congress for the Period Ending September 30, 1993 (1995).

/42/ 45 C.F.R. Sec. 232.40 & app. A.

/43/ H.R. 4, tit. III, subtit. D, Sec. 332(3).

/44/ See sec. II, supra, for a discussion of the child exclusion provision.

/45/ Illinois Department of Public Aid, supra note 30.

/46/ The Illinois Domestic Violence Act of 1986, 750 ILCS 60/103(1) & (3).

/47/ H.R. 4, tit. I, Sec. 103, pt. A, Sec. 408. See also sec. IV, infra, for a discussion on time limits.

/48/ H.R. 4, tit. III, subtit. D, Sec. 331.

/49/ Deborah Harris, Massachusetts Law Reform Institute, Comments on the Proposal to Require Hospitals to Assist in Establishing Paternity H.4944, Sec. 6 (1993).

/50/ H.R. 4, tit. I, Sec. 103, pt. A, Sec. 408(a)(8)

/51/ Id. Sec. 402(a)(1)(A)(ii).

/52/ Id. Sec. 408(a)(8).

/53/ Id. Sec. 408(8)(C)(iii).

/54/ See, e.g., The Illinois Domestic Violence Act of 1986, 750 ILCS 60/101 et seq.; see also sec. III.B, supra, for a discussion of good-cause exceptions.

/55/ H.R. 4, tit. I, Sec. 103, pt. A, Sec. 407.

/56/ Id. Sec. 407(d).

/57/ Id. Sec. 407(b)(5).

/58/ See supra notes 1, 4, & 6 for research that discusses barriers to work for domestic violence victims.

/59/ H.R. 4, tit. I, Sec. 103, pt. A, Secs. 402(a)(1)(B)(i), 404(c).

/60/ See Davis & Kraham, supra note 7; Green v. Anderson, 811 F. Supp. 516 (E.D. Cal. 1993), aff'd, 26 F.3d 95 (9th Cir. 1994), vacated on other grounds, 115 S. Ct. 1059 (1995) (Clearinghouse No. 48,733). In Green, the plaintiffs challenged, and the district court invalidated, California's durational residency requirement.