



How a “Blueprint for Reform” Led to 20 Years of Program Improvement

By Jeff Ball

How did a commission impact child support for a generation? During several recent child support conferences, OCSE Commissioner Vicki Turetsky has discussed how a 1992 report to Congress helped shape the modern child support program. The decade of the 1990’s was one of change, growth, and improvements for the program unrivaled since its origin. This is an article about the Commission that issued the report that spurred many of the major changes to the program over the past 20 years. It may serve as a template for the next round of changes for a program that is increasingly more complex and interrelated with other programs than it was even 20 years ago.

The child support program was struggling in the late 1980’s. Congress was concerned that the IV-D program, created in 1975 as a federal-state partnership primarily to recoup welfare debt, was falling short of its mandate to successfully locate noncustodial parents, establish paternity and support orders, and enforce those orders. Only about \$5.27 billion was collected nationally in 1989.ⁱ In 1990, only about 56% of IV-D cases had ordersⁱⁱ and only about 18% of IV-D cases had payments.ⁱⁱⁱ In 1989, approximately 7.8 million cases were public assistance cases (then known as AFDC or ADC cases) and about 4.8 million IV-D cases were non-public-assistance cases.^{iv}

Paternity establishment was much different than it is today. During the late 1980’s, paternity could still be established through quasi-criminal rather than civil proceedings. In Virginia these were called “bastardy proceedings” until the 1980’s. In some states, a nineteenth century English precedent precluded a mother from “delegitimizing” her children by testifying that someone other than her husband might have fathered her children. Jury trials to establish paternity led to lifting the infant in question for the jury members to see so they could determine if the child looked like the alleged father. Blood tests and Human Leukocyte Antigen (HLA) tests excluded alleged fathers, but DNA testing was not yet available.

The establishment of a support order varied throughout the country. Some states used guidelines based on parental incomes to establish orders; others left it mostly to the

court's discretion to set the amount of the order, or to determine if a modification was appropriate.

Contempt and criminal prosecution were the primary enforcement techniques. Income withholding was a discretionary remedy, even when the non-custodial parent was delinquent. Without new-hire reporting, it was often several months before the IV-D office knew of the new employer. The result was a long disruption of payment, until a new income withholding order could be put in place – assuming the noncustodial parent had not changed jobs again. Direct income withholding across state lines was often done, but without legal authority to do so. In almost all states, payments were made locally to county clerks or other officials, much of it in cash.

In the 1980's the primary interstate enforcement law was the Revised Uniform Reciprocal Enforcement of Support Act (RURESA). Each time a non-custodial parent moved from one state to another state, the custodial parent would file a RURESA petition. Even where there was an existing support order which the custodial parent sought to enforce, the responding state usually entered a new order for an amount the responding state's court thought appropriate. A non-custodial parent could be subject to several orders, all valid, for different amounts for different durations. Several states, including California, applied RURESA intrastate, allowing orders to vary from county to county.

A few states and some counties had first-generation automated child support systems but few had statewide systems capable of sharing data across offices. Some rural offices still conducted business solely by paper and carbon copies.

The program as a whole was chugging along, but many states were coming up with new techniques to increase effectiveness. Congress, with its ability to regulate interstate commerce, was particularly interested in how child support enforcement between states could be improved. And it was interested in what revisions were needed to URESA. Promulgated in 1950, URESA had been amended several times. Even the 1968 Revised URESA (RURESA) had outlived its usefulness.

The Family Support Act of 1988 contained major changes to the child support program. Congress mandated, as a condition of receiving federal funds, presumptive child support guidelines, created review and adjustment, required statewide automation, and imposed the first requirements for immediate income withholding. Congress also created the U.S. Commission on Interstate Child Support. Its mission was to “. . . submit a report to Congress that contains recommendations for (A) improving the interstate establishment and enforcement of child support awards; and (B) revising the Uniform Reciprocal Enforcement of Support Act.”^v

The Commission was composed of fifteen members: eight appointed by both houses of Congress and seven appointed by the Secretary of the U.S. Department of Health and Human Services (HHS). One of the HHS appointees, Margaret Campbell Haynes (Meg), Director of the American Bar Association's Child Support Project and a former IV-D prosecutor in North Carolina and Massachusetts, was chosen by her fellow Commissioners as the Chair. She was an acknowledged expert on RURESA. Harry Tindall was chosen as Vice Chair. Harry came to the Commission as a successful family law practitioner from Houston who had collaborated with Prof. Jack Sampson of the University of Texas, School of Law, on several family law texts for Texas practitioners.^{vi} Commissioners included three government officials: Schuyler Baab, Director of the Office of Intergovernmental Affairs within HHS; J.B. McReynolds, Associate Commissioner for Legal Services, within the TX Department of Human Services; and Irma Neal, who at the time of her appointment was the director of the Office of Paternity and Support for Washington, DC. There were two judicial members: Judge Frances Rothschild of California and Judge Battle Robinson of Delaware. Two private attorneys were appointed: Michael Barber from California and Beth Mason from Oregon. Geraldine Jensen of Ohio, who headed the advocacy organization, Association for Children for Enforcement of Support (ACES), represented the viewpoint of custodial parents; Don Chavez, a licensed clinical social worker from New Mexico, represented the viewpoint of noncustodial parents. The Honorable Lee Daniels, of the Illinois House of Representatives, was appointed but later resigned. Senator Bill Bradley (D-NJ), Rep. Marge Roukema (R-NJ), and Rep. Barbara Kennelly (D-CT) were also members of the Commission. While their staff often participated on their behalf, they were deeply committed to the work of the Commission. Their membership enhanced the Commission's visibility and media coverage. And when the Commission's report was eventually released, they quickly moved to ensure that implementing legislation was introduced.

To staff the Commission, Meg chose Vernon Drew as the Executive Director. Vernon



was the first IV-D director of South Carolina and then a division director at OCSE before entering the private sector.

I had worked with Meg at the ABA, and she chose me to be legal counsel and deputy director. Phil Shandler (public relations) and Joyce Moore (administrative matters) were also staff members. Meg was practically a daily presence at the Commission office, reviewing our research, drafts, and plans between Commission meetings. The Commission had a limited timeframe to make its recommendations, which were originally due in 1989. Because there was a delay in appointing the Commissioners, the Commission's lifetime was extended. The Congressional report was issued in August 1992.



The Commission faced a scope issue at the start. The Commission's work could be limited to recommended amendments to the 1968 revised URESA and a few related interstate recommendations. Alternatively, it could be a more comprehensive review of the program with recommendations touching both intrastate and interstate aspects of the program, since interstate cases are often so dependent on a well-functioning intrastate program. The final report reflects the more comprehensive approach, which was consistent with Meg's vision for the program.

After deciding that the scope of the Commission's work would be comprehensive, the next decision focused on how much change was appropriate to recommend to the federal/state system that had been in existence since 1975. Some states, like Michigan and Pennsylvania, had court-run child support programs that predated World War II. Some state programs were state-operated while other states relied on local offices, operated by either the local social services agency or the county district attorney.

There was a movement within the advocacy community to federalize aspects of the IV-D program, such as enforcement. (In fact, Rep. Henry Hyde (R-IL) later introduced a bill for partial federalization of the program.) Proponents of federalization believed that national jurisdiction to enforce an order would allow for consistent, uniform enforcement without the jurisdictional impact of a state border crossing. The Commissioners faced several choices for the direction of their comprehensive recommendations: 1) federalize the casework under Title IV-D; 2) partially federalize the casework under Title IV-D; or, 3) retain the current state/county operated program with additional federal assistance and more prescriptive state standardization.

The majority of the Commissioners felt that it was premature to completely revise the state/county operated system overseen by OCSE. The current system should have one more chance, as Rep. Roukema said, equipped with new tools and reformed approaches, to show that this unique partnership could succeed. Although the

Commission did recommend some plenary federal laws [such as the Full Faith and Credit for Child Support Orders Act, federal criminal nonsupport statutes, the expansion of the Federal Parent Locator Service, and the development of a Federal Case Registry], the recommendations were mainly designed to be state-implemented. Like most child support laws, states would be required to pass the IV-D changes Congress approved or risk loss of federal IV-A (public assistance) funding.

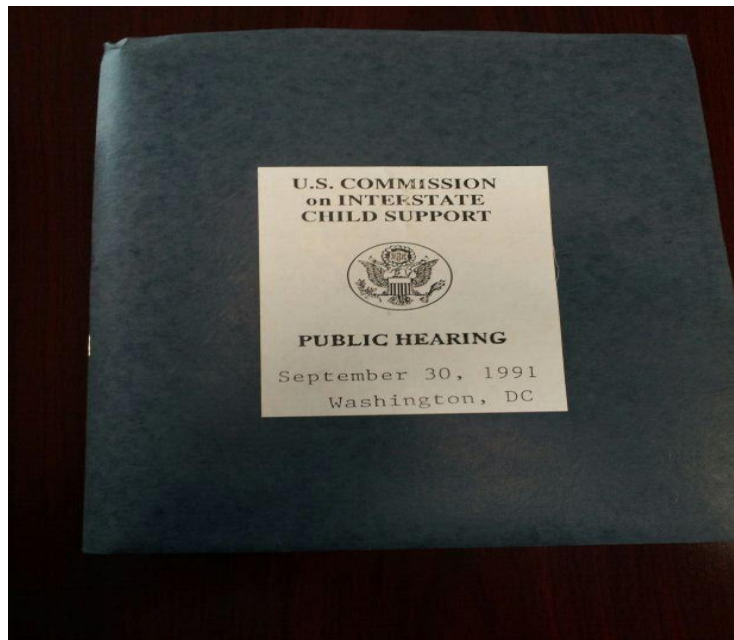
Meanwhile, the National Conference of Commissioners on Uniform State Laws (NCCUSL) knew that Congress was considering updating URESA. Although many states had enacted the 1968 Revised URESA (RURES), other states operated under variations of the 1950, 1952, and 1958 versions of URESA. Some states, including New York, primarily used the Uniform Support of Dependents Law sprinkled with parts of URESA. There was no uniformity.

NCCUSL chose Allan Rogers of Massachusetts as the drafting committee chair, with eight other distinguished attorneys and jurists serving as committee members. Law school professors, Jack Sampson and Paul Kurtz, were the co-reporters. Many members from the Interstate Commission contributed as observers and advisors. The initial meeting of the drafting committee in 1990 briefly considered making a few amendments to RURES, but the drafters quickly realized more sweeping changes were needed.

NCCUSL's drafting committee met regularly, and the mantra of "one order, one time, one place" gained consensus. Committee members discussed definitions at length (What is a "state"? What is a "support order"?). There were also extensive discussions regarding how to transition from a multiple-order URESA world to a one-controlling-order UIFSA world. Modification was a hot topic. A whole host of questions followed. Should jurisdiction follow the child, as in child custody cases? Should it follow the obligor, which was more in line with *Kulko v. Superior Court*,^{vii} a 1984 U.S. Supreme Court case? An extensive long-arm section was added for paternity and order establishment purposes, but did some of the rules of the emerging UIFSA draft cover long-arm cases or only two-state cases? How could evidence be gathered, introduced, authenticated, and admitted in interstate cases? Could direct withholding across state lines be legalized through UIFSA, and if so, where should disputes be heard and whose enforcement laws should control?

It would take multiple meetings over two years to shape the first iteration of what came to be known as the Uniform Interstate Family Support Act (UIFSA), which added the terms controlling order, continuing exclusive jurisdiction, direct withholding, and home state to the child support lexicon.

As noted earlier, a list of recommendations to URESA was only half of the Commission's mandate. The Commission was also to make recommendations regarding interstate enforcement in general. The members of the Interstate Commission knew that much of its report's credibility would rest on listening to the professionals within the child support community as well as parents, academics, jurists, and attorneys from outside the IV-D community. The Commission held public hearings around the nation and hosted a Leadership Conference in Atlanta, Georgia, to solicit input regarding recommendations and to respond to initial drafts of recommendations and directions that the Commission was considering. Members of the National Child Support Enforcement Association (NCSEA), the Eastern Regional Interstate Child Support Association (ERICSA), the American Public Welfare Association (APWA), the American Payroll Association (APA), and other organizations testified before the Commission. The Commission also heard from individuals on specific topics, such as bankruptcy, medical support, privacy rights, tribal child support issues, and child support issues related to the military. The General Accounting Office (now the Government Accountability Office- GAO) issued two important reports that quantified the scope of the interstate problem and looked at specific issues, such as direct income withholding. The GAO reports gave credence to the child support community's feeling that the interstate child support caseload was large and often handled inefficiently.



Many ideas from testimony given to the Commission wound up in the recommendations, as did ideas from many states that furthered the efficiency and efficacy of the program. Members of the IV-D Community, including Michael Henry, Harry Wiggins, Barbara Paulin, Marilyn Ray Smith, Wayne Doss, Paula Roberts, and Susan Paikin, contributed insights and suggestions. Washington State produced the idea of W-4 (new hire) reporting, which it had initially implemented in limited job (male-dominated) categories. Kent County, Michigan's Friend of the Court also supported W-4 reporting. New York and Colorado provided inspiration for what became the State Disbursement Unit recommendation – statewide collection and disbursement of child support. Washington State and Virginia had been successful in using in-hospital paternity acknowledgment processes. Massachusetts provided innovative data-

matching programs for enforcement purposes. Maine's driver's license revocation program was inspirational. Countless good ideas were considered, some based on theory and some based on a state's implementation history.

The Commission staff researched which IV-D techniques were worthy of replication nationwide, and examined which concepts that had not necessarily been tested would likely be effective if incorporated into programs at the state level. They considered staffing, training, and funding issues. The Commission also conducted an extensive review of such issues as jurisdiction and venue, UIFSA, paternity establishment, enforcement, and due process. The idea was to push the envelope to the limits of state-based reform under the Constitution.

Drafts of recommendations were circulated among the Commissioners for review and comment throughout 1991. Administrative process versus judicial/quasi-judicial process was a hot topic. Other lively-debated topics included child-state jurisdiction, a national guideline, and a national duration of support. Members found it hard to coalesce around funding solutions because there was a dearth of information that would support alternatives that had not been tried. Child support assurance – that is, paying child support to the custodial parent when it is due even if not collected from the non-custodial parent at that time– was another area of divergence among the Commissioners, both for principle and cost reasons.

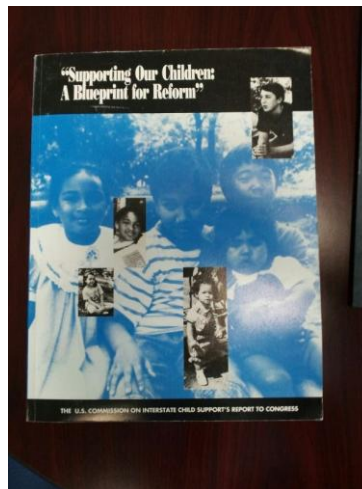
During 1991, NCCUSL's drafts of UIFSA were also circulating and prompting questions. Should people be able to "register support orders for the fun of it"? How is spousal support treated? Are there protections built in for cases with possible family violence? Should there be a laundry list of responsibilities for support enforcement agencies? Whose law should apply in a two-state petition case or a modification, particularly statutes of limitation?

As time passed, the Interstate Commissioners began to reach consensus on their recommendations. The most prominent operational recommendations revolved around implementing W-4 reporting, whereby state-reported data would be linked nationally, and a federal case registry aggregating data elements from state case registries. An expanded Federal Parent Locator Service (FPLS) would provide more locate resources. They left a few issues unresolved for lack of time, consensus, or adequate research, such as national support order guidelines, national staffing standards, and funding revisions, particularly regarding incentive funding.

On September 30, 1991, a hearing was held to review the Commission's 120 draft recommendations. Several articles in the media followed, mostly favorable. Senator Bradley said he would introduce legislation incorporating many of the recommendations. Around the same time, NCCUSL's drafting committee had completed its work, and was

preparing to submit UIFSA for review by the American Bar Association and later by all the Uniform Law Commissioners in attendance at the NCCUSL annual meeting.

On August 4, 1992, the Commission released the 442-page “Supporting Our Children: A Blueprint for Reform.” Modeled after the Commission on Children’s Report, the child support report had an executive summary, a statement of the current child support world, the Commission’s approach, and its recommendations. An important achievement was the 13 to 1 approval by Commissioners of the Commission’s major recommendations



Almost immediately the Commission’s report had impact. Later in 1992, the Child Support Recovery Act federalized criminal nonsupport, which was a Commission recommendation.^{viii} The Omnibus Budget Reconciliation Act of 1993 incorporated many of the Commission’s paternity recommendations. Between 1994 and 1996 President Clinton’s Welfare Reform Task Force carefully reviewed the Commission’s report. Paul Legler, a Task Force member, and Mary Jo Bane, Assistant Secretary of the Administration for Children and Families, HHS were instrumental in fine tuning the Task Force’s work. House Ways and Means staff, especially Ron Haskins, ensured that committee chair Rep. Clay Shaw (R-FL) was on board with the prescriptive child support part of the proposed welfare reform legislation, which differed from the block grant approach for public assistance. The majority of the Commission’s recommendations were eventually included in the child support title of the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996. One significant provision of PROWRA required every state to adopt verbatim UIFSA 1996, recently promulgated by NCCUSL to update the 1992 version.^{ix} In 1998, the Child Support Performance and Incentives Act (CSPIA) resolved the incentive funding issues that the Commission had left on the table. Some of the Commission’s recommendations, such as a national timeframe regarding duration of support, a commission to develop a national support guideline, nationwide staffing standards, and child-state jurisdiction Sense of Congress

statement, were never enacted or implemented. Additional ideas not addressed by the Commission, such as AEI (Administrative Enforcement of Interstate), passport denial, OCSE funding from the federal share of welfare recoupment for automation and technical assistance, and personal injury insurance intercept, were added to PRWORA or the Deficit Reduction Act of 2007.

A generation after the U.S. Interstate Commission issued its report and recommendations, the program has matured into one that does reasonably well at collecting support, and is now focused on supportive measures for both custodial and non-custodial parents to ensure that they have the tools with which to provide financial, and emotional, support to their children. As the next wave of changes moves the program to a more holistic, neutral approach to supporting families, it is well to remember and understand how the successes over the past twenty years are providing the platform for our next level of program reforms.

Jeff Ball is currently Project Manager for El Paso and Teller County Child Support Services Offices, Colorado, operated by YoungWilliams, PC. From 1990 to 1992 he served as legal counsel and deputy director to the U.S. Commission on Interstate Child Support.

ⁱ OCSE's Twenty-eighth Annual Report to Congress (2007), Part 5 – Program Improvement.

ⁱⁱ OCSE's Nineteenth Annual Report to Congress (1994) – for FY1990.

ⁱⁱⁱ *Id.*

^{iv} U.S. Commission on Interstate Child Support, *Supporting Our Children: A Blueprint for Reform* (1992), p. 4, citing OCSE's Fifteenth Annual Report to Congress (1990).

^v Family Support Act of 1988, Pub. L. 100-485 (1988).

^{vi} Professor Jack Sampson and Prof. Paul Kurtz of the University of Georgia, School of Law, were later chosen as co-reporters (or drafters) of what eventually became the Uniform Interstate Family Support Act (UIFSA).

^{vii} *Kulko v Superior Court*, 436 U.S. 84 (1978).

^{viii} Congress later enacted additional federal nonsupport remedies with the Deadbeat Parents Act of 1998.

^{ix} At that point only 10 states had enacted the 1992 version of UIFSA.