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## ERICSA Position Paper Federal Budget Initiatives FFY 2007

### I. Introduction

The Eastern Regional Interstate Child Support Association (ERICSA) is a not-for-profit organization of child support professionals that promotes the interests of children who are owed child support. ERICSA members work for or with state, tribal and local child support agencies as public or private-sector participants.

Founded in 1963, ERICSA historically has drawn its membership from persons working for or doing business with tribes and states and their local jurisdictions that border on, or are east of, the Mississippi River. ERICSA holds an annual training conference and provides policy positions on key issues affecting child support.

Congress is considering important legislative initiatives that impact the child support program. This paper will take positions on issues that are contained in the administration's recommended budget proposals for FY2007. Our emphasis is not on specific language, but rather on the concepts behind the child support provisions.

### II. ERICSA's Prior Related Position

ERICSA supports secure and confidential access to IRS data by the public and private partners of child support enforcement (CSE or IV-D) agencies, but solely for purposes consistent with the operation of the IV-D program.

### III. Current Positions

#### a. *Notice to IV-D Agency from Health Care Plan Administrator when a child loses healthy care coverage COBRA Notice:*

ERICSA supports the provisions in the President's Budget proposal to require health care plan administrators to provide notice to the IV-D agency of the possible loss of a child's health insurance coverage. This will allow the IV-D agency to consider what other options for coverage may exist.



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A worthy precedent for notification of terminated coverage was implemented as part of a match between the federal Office of Child Support Enforcement and the Defense Manpower Data Center (DMDC). In a collaborative effort to reduce unnecessary expenditures of resources, both in paperwork and associated labor costs to determine children's current medical coverage status, a quarterly match was instituted beginning in December 2005. This match informs state child support agencies of children currently enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) for TRICARE coverage; children eligible for coverage by virtue of a parent being in the military as active duty, retiree or in a special civilian classification; and children who have been terminated from previous medical coverage. A date for when medical coverage was or will be terminated is provided. This joint effort should be applauded and emulated in terms of providing "need to know" data in a timely manner. Child support agencies gain quarterly updates concerning children being provided coverage; children who should be referred for available coverage, and children whose loss or imminent loss of coverage needs addressing. This data helps ensure that a child's medical coverage needs and options are kept current.

### **b. *Seizure of assets held by multi-state financial institutions***

Financial institution data matching (FIDM), as well as the ability to freeze and seize delinquent obligors' assets found in those institutions, has been an important addition to the enforcement arsenal of state child support programs. Although not perfected, the states have worked diligently with the finance community to launch this effort and to begin making it an effective vehicle for enforcing child support. PRWORA required states to give full faith and credit to child support liens on personal and real property that arise in other states as a result of delinquent child support under a valid order. Once the lien is filed according to the procedures of the filing state, but without the need for a separate judicial action, it is to be honored by all entities holding property affected by the lien, which may include financial institutions. PRWORA also requires entities in a state to honor out-of-state requests for information and administrative subpoenas.

ERICSA recognizes that the FIDM process, especially as it relates to multi-state financial institutions, could benefit from federal assistance, and the Association applauds our federal partners for their support in this area. However, ERICSA believes that, due to a range of state-based constraints, such as system reconfiguration costs, due process issues, etc., the FIDM process would be better served by a few strategic improvements rather than by the creation of a new, federally-administered system.

Accordingly, to assist states to meet the challenges related to the current FIDM process, ERICSA recommends that:

- Congress authorize the Secretary to increase the level of support available to help the states broker FIDM agreements with the relevant institutions, especially those conducting business in multiple states;
- Congress strengthen existing statutory language in two ways – first, by specifying the authority of IV-D agencies to encumber and seize financial institution funds across state lines through interstate levies, notwithstanding any other federal law or regulation; and second, by requiring financial institutions to give full faith and credit



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to valid lien or levy orders entered by state child support tribunals, irrespective of the issuing state, and to honor them by forwarding the levied amount to the state that issued the levy;

- The Secretary issue regulations setting out a consistent set of data elements to be included in child support lien and levy documentation in an effort to facilitate the ability of financial institutions to determine the validity of such orders and to process them; and

Congress ensure that states afford due process not only to the delinquent obligors whose assets are subject to the FIDM process, but also to individuals who jointly hold affected accounts with such people. Congress should choose in which state a contested hearing should occur.

### ***c. Interception of gambling winnings for child support***

The gambling provision would require that, prior to paying out any gambling winnings above a specific amount; the gambling establishment must check a federal website to determine if a gambling winner owes past-due child support. If the winning individual is found to owe past-due child support, the gambling establishment must withhold the past-due amount from the winnings, and it must transmit the money to OCSE for transmittal to the appropriate State agency.

ERICSA supports the concept of interception of gambling winnings for repayment of past-due child support. Gambling winnings have not been previously subject to interception for child support purposes, although lottery winnings have been. This section would bring gambling winnings in line with lottery winnings as vehicles for collection of unpaid child-support.

Notwithstanding ERICSA's support of gambling winning intercepts, we strongly recommend that participation for tribes be voluntary. Tribal sovereignty should be respected. ERICSA is concerned that tribes will be discouraged from seeking IV-D status, as authorized by PRWORA, if a mandatory gaming interception provision in the tribal code is required as a condition of being a tribal IV-D agency. As long as the tribe provides for the enforcement of child support orders, it is inappropriate to single out in federal law one particular type of enforcement method. Each tribe should be able to determine the best policy for its membership, unfettered by attempts to impinge sovereignty.

### ***d. Garnishment of Longshore and Harbor Workers' Benefits for child support***

The Longshore and Harbor Workers' Compensation Act provides workers' compensation to dock workers, offshore platform workers, etc. The Act exempts the compensation from all garnishments from any creditor.

ERICSA supports ending this exemption, putting this category of workers' compensation into the same position as that of all other workers' compensation programs – money that can be garnished for the purpose of paying child support. There is no reason to exempt this category of disability income from garnishment when the worker's family is owed child support.



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***e. Tribal access to the federal parent locator service and Tax Refund Offset Program***

ERICSA supports tribal access to the FPLS and the Tax Refund Offset Program. Tribes that are certified as IV-D programs should have access to the same information and programs as state IV-D programs do, in an effort to increase locate, establishment, enforcement, and interstate reconciliation efficiency and success.

***f. OASDI (Old Age, Survivor, and Disability Insurance) Benefit Offset***

ERICSA supports the ability to reach every form of income that is not means-tested, and we applaud the expansion reflected in this section. However, we believe that the power already exists to reach Social Security Disability and Retirement payments, without the restrictions and costs imposed by the administrative offset. This provision may confuse local SSA offices that may refuse to honor income withholding notices and require the more indirect use of administrative offset. We also have concerns that the garnishment limits regarding the amount and percentage of payment that can be garnished under this provision are too restrictive.

***g. Requirement of "Date of Hire" for New Hire Reportin***

In today's electronic age, usefulness of data is linked to data currency. Capturing the date on which a new hire starts work facilitates the determination of appropriate next steps for all users of new hire data. For child support agencies, this is critical to sending out income withholding orders. Knowing the exact date work started helps determine when income is first available for withholding. This also helps in determining when medical coverage may be available. Children who have gone without and may be at risk benefit by this information being captured and acted upon in the timeliest manner possible. Similarly, many obligors want uninterrupted support going to their children. These parents benefit by the elimination of income-withholding gaps between their previous and new employment.

ERICSA recognizes that the mandatory reporting of the date a new hire starts work would benefit other users of new hire data. As mentioned in the President's FY2007 budget proposals, the date a new hire starts work is critical for State Workforce Agencies in determining possible overpayments. Overpayments occur when unemployment benefits continue to be paid after new employment has started. This is especially common when benefits are claimed during the interim period between work starting and the first paycheck arriving.

In addition to child support agencies and the State Workforce Agencies, the Social Security Administration, Internal Revenue Service, Department of Education, Department of the Treasury Financial Management Service, Department of Housing and Urban Development, Department of Health and Human Services Office of Family Assistance, and the state TANF agencies would benefit from the mandatory reporting of the date on which a new hire starts work. All of these agencies are users of new hire data reported to the National Directory of New Hires (NDNH), which is maintained by the federal Office of Child Support Enforcement. For each of these agencies, knowledge of a new hire's first day of work would facilitate decisions as to when benefits or services are appropriate.



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ERICSA recognizes that when the Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), the date on which a new hire starts work was not mandated as a required element. The vehicle selected as the means for employers to report new hires to the State Directory of New Hires (SDNH), and in turn to the NDNH, was the IRS W-4 Form, an existing form with which employers were familiar. Since the date on which a new hire started work was not required on this form, it was not made a mandatory reporting data item. Congress did stipulate that the date of hire, along with the state of hire and the employee's date of birth, would be accepted as optional elements for processing through the NDNH.

Presently, 26 states and territories require employers to report the date of hire and submit this data to the NDNH. Seven others report this date a measurable percentage of the time. A major factor in the voluntary reporting of this data is the involvement of payroll providers. If required to report a particular data item to any one state, payroll providers can pass along that data to all of the states with which they interact.

The increased use of electronic reporting since the enactment of PRWORA has led to greater ease in the reporting of additional data elements such as the date of hire. Employers, both large and small, are availing themselves of various electronic reporting means offered by the SDNH. These electronic options have moved employers away from a paper W-4 and have reduced the costs associated with mailing and paper handling.

In recognition of the above stated benefits and in consideration of the changed reporting environment for employers ERICSA:

- Supports the President's proposed FY2007 budget item for the mandatory reporting of the date a new hire starts work.
- Urges Congress to eliminate any ambiguity concerning the reporting of this data. The optional "date of hire" referenced in PROWRA may be interpreted by employers as the date on which a new hire accepted employment. To be effective for determining appropriate next steps by the various users of new hire data, the required date should be the actual date on which a new hire starts work.

***h. Disclosure of certain income tax return information to child support enforcement agencies and agents (including contractors) to administer title IV-D programs***

The location of individuals and their assets is a critical component of the work of federal, state, local, and tribal IV-D entities. The data maintained by the United States Department of the Treasury, Internal Revenue Service (IRS) is an invaluable source of location information. Currently, authority to disclose tax data for IV-D program purposes is contained in three separate provisions in section 6103 of the Internal Revenue Code of 1986 (IRC).

The current federal statute has resulted in a lack of consensus between the IRS and HHS regarding the persons and entities permitted to receive the data as well as the authorized uses for that information.



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OCSE and the IRS have reached agreement on language for proposed legislation, which consolidates the authority to disclose and use tax data for IV-D purposes into a single, comprehensive provision of section 6103 of the IRC and which has been shared with child support organizations. That proposal acts to eliminate much of the uncertainty regarding the disclosure and use of tax data for IV-D purposes; it also grants federal, state, local, and tribal IV-D agencies, as well as agents of those entities, access to that data for the purpose of conducting child support enforcement functions. The proposal also clarifies the permissible uses of that data and the safeguard responsibilities of the IV-D agencies and their agents. Further, it provides a set of definitions that would control the interpretation and implementation of the new provisions.

ERICSA urges Congress to pass the IRS/OCSE proposal (dated July 10, 2002) regarding the disclosure and use of tax data by federal, state, local, and tribal IV-D entities, and their agents, for the purpose of conducting the nation's child support enforcement program.

### **IV. Closing**

ERICSA believes that these positions will strengthen child support nationally.

Approved by the ERICSA Board on this 22<sup>nd</sup> day of April, 2006.

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Jeff Ball, ERICSA President

