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Memorandum

DATE: May 13, 1997
TO: Representatives Gardner and Culpepper
FROM: Gann Watson, Staff Attorney
Fax: 715-5459; Gannw@ms.ncga.state.nc.us

RE: H301 - Certification of Legislation Required by Federal Law

BACKGROUND

G.S. 120-36.8 requires that every introduced bill that proposes any change in the law which purports to implement federal law or purports to be required or necessary for compliance with federal law, or on which is conditioned the receipt of federal funds, shall have attached a certification identifying the federal law. The certification is to be provided by the Fiscal Research Division in consultation with Bill Drafting/General Research.

House Bill 301 proposes to implement the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 94-103. This memorandum provides a summary of and citations to federal requirements of P.L. 104-103 and corresponding Parts of H301. This memorandum does not address the fiscal impact of House Bill 301. Certification with respect to fiscal impact will be provided by the Fiscal Research Division.

Title IV-D of the Social Security Act, as amended by P.L. 94-103, relates to Grants to States for Aid and Services to Needy Families with Children and for Child Welfare Services. H301 pertains to that portion of the Act dealing with Child Support and Establishment of Paternity. The State Plan for administering federal TANF grant funds must comply with the Act, as amended by P.L. 94-103, in order to continue to receive these federal funds.

HOUSE BILL 301

PART 1. STATE DIRECTORY OF NEW HIRES

42 USC 653A requires that by October 1, 1997, each state shall establish an automated directory (to be known as the State Directory of New Hires) which shall contain information supplied by employers on each newly hired employee.

Part 1 of H301 establishes the State Directory of New Hires and requires DHR to develop and maintain it. Employers are required to report information to the State Directory within 20 business days of date of hire. There are penalties for failure to report or for conspiracy not to report. All of the provisions of Part 1 of H301 are required to be established by federal law.

PARTS 2 AND 2A. EXPANDED AUTHORITY OF THE DEPARTMENT TO ENFORCE CHILD SUPPORT ORDERS AND TO ESTABLISH PATERNITY.

42 USC 666 Requires statutorily prescribed procedures to improve effectiveness of child support enforcement. These procedures not only require statutory changes to the substantive law, e.g. procedures for paternity establishment in Chapters 110 and 49 of the General Statutes, but also statutory authorization to the child support enforcement agency, to implement these changes. *Part 2 of H301 gives the Department of Human Resources statutory authority to implement the requirements of P.L. 104-193. The following sections of P.L. 104-193 require the authorization provided under Part 2 of H301: Sections 316, 325, 331, 351, 372, and 382. Part 2A implements 42 USC 666(a)(11)(c) pertaining to when due process requirements for notice are met in child support proceedings.*

PART 3. AUTHORIZE JUDGES TO IMPOSE WORK REQUIREMENTS ON OBLIGORS WHO ARE IN ARREARS IN CHILD SUPPORT, AND REQUIRE PARENTS TO PROVIDE MEDICAL SUPPORT.

42 USC 666(a)(15) requires procedures "to ensure that persons owing past-due support work or have a plan for payment of such support." *Part 3 implements this requirement by requiring judges to impose work activities under appropriate circumstances. "Work activities" are those defined under Section 407(d) of P.L. 104-193.*

42 USC 666(a)(19) requires procedures under which all child support orders are required to include a provision for health care coverage of the child, when this coverage is available to the noncustodial parent at a reasonable cost. This section also requires that if the noncustodial parent changes employers and health care coverage is provided through the new employer, then the order for health care coverage is applicable to the new employer. *Sections 3, 3.1, and 3.2 of H301 implement the health care coverage requirement, and also provide that upon notice from the obligee (non custodial parent or State agency), the new employer must enroll the child in the employer's health plan.*

PART 3A. CONFORM STATE TAX INTERCEPT LAW TO FEDERAL REQUIREMENTS.

42 USC 657 was amended by Section 303 of P.L. 104-193. It changes the way support collected through the State and Federal income tax intercept procedures is distributed. *Section 3.3 of H301 conforms the State income tax intercept law to conform with the new federal distribution requirements.*

PART 4. REQUIREMENT TO PROVIDE SOCIAL SECURITY NUMBERS ON CERTAIN DOCUMENTS

42 USC 666(a)(13) requires that an individual's social security number be recorded on the following documents: application for driver's license, business or occupational license, and marriage license; divorce decree; child support order, paternity order or acknowledgment; and death certificates. *Part 4 of H301 amends the pertinent General Statutes to ensure that social security numbers are provided.*

PART 4A. PATERNITY ESTABLISHMENT PROCEEDINGS

42 USC 666(a)(5) requires paternity establishment proceedings allowing for: genetic testing, presumption of paternity based on genetic test results, legal finding of paternity subject to rescission, no jury trial, and temporary support order during contested paternity when there is a substantial probability that the contestant is the biological father. *Part 4A of H301 establishes paternity establishment procedures that are in accordance with and do not exceed federal requirements.*

PART 5. SUSPENSION/REVOCAION OF LICENSES FOR FAILURE TO COMPLY WITH SUBPOENA.

42 USC 666(a)(16) requires that driver's, occupational, business, and recreational licenses be subject to suspension/revocation when an obligor or putative parent fails to comply with a subpoena issued pursuant to child support or paternity establishment proceedings. *Part 5 of H301 amends the relevant section of the General Statutes to provide for revocation/suspension of licenses for failure to comply with subpoena.*

PARTS 6 and 6A. INCOME WITHHOLDING

42 USC 666(a)(1) requires that income withholding procedures be implemented immediately when arrearages occur. *Part 6 of H301 decreases the time that employer's have to withhold income from the obligor. Change would decrease the time from 10 days to 7 days. (Conforms to federal requirement under 42 USC 666(a)(1)). Part 6 also allows for collection and disbursement of support to be made by the State collection and disbursement unit when that unit becomes operational. Part 6A provides that in IV-D cases where the obligor is not currently subject to withholding and is in arrears in support, the obligor becomes subject to withholding immediately.*

PART 7. ESTABLISHMENT OF LIEN ON REAL AND PERSONAL PROPERTY OF PERSONS OWING PAST-DUE CHILD SUPPORT.

42 USC 666(a)(4) requires procedures under which liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent. *Part 7 of H301 establishes a procedure for obtaining a lien when an obligor is in arrears 3 months or \$3,000, whichever occurs first. The procedure provides for verification of information, filing, executing, and discharging the lien, and imposes a penalty for failure to discharge.*

PART 8. DHR TO DEVELOP AUTOMATED DATA PROCESSING AND INFORMATION SYSTEM, AND CENTRALIZED COLLECTION AND DISBURSEMENT SYSTEM FOR THE ENHANCEMENT OF CHILD SUPPORT COLLECTION AND DISBURSEMENT.

42 USC 654(16), as amended by Sec. 344 of P.L. 94-103, requires the state agency administering the state program to have in operation a single statewide automated data processing and information retrieval system which has the capability to perform [specified] tasks. The system must be in effect by October 1, 2000. Sec. 312 of P.L. 94-103 requires that the state establish and operate a unit for the collection and disbursement of payments under support orders. The unit must be operational by October 1, 1999. *Section 8 of H301 direct DHR to take the necessary steps to comply with the federal requirements for an automated system, and for a collection and disbursement unit. DHR is required to report to the General Assembly on its progress. Section 8.1 amends the General Statutes effective October 1, 1999 to establish the collection and disbursement unit as the single agency for collecting and disbursing child support payments.*

Section 8.2 of H301 implements federal requirements (42 USC 654, as amended by Sec. 303 of P.L. 94-103) for protecting the privacy rights of parties when there is the danger that disclosure of information regarding the whereabouts of a person may result in physical or emotional harm to the person.

PART 9. FINANCIAL INSTITUTION DATA MATCH

42 USC 666(a)(17) requires procedures under which the State agency shall enter into agreements with financial institutions to develop and operate a data match system. Under the system, financial institutions must provide certain information about a noncustodial parent who maintains an account at the institution and who owes past-due support. The financial institution may charge a fee for providing the match but the fee may not exceed the actual cost of conducting the data match. *Part 9 of H301 authorizes DHR and financial institutions to enter into agreements to establish the data match system.*

PART 10. AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA).

42 USC 666(f) requires that the State must have in effect by January 1, 1998, the UIFSA and amendments thereto. *North Carolina adopted UIFSA in 1995. Part 10 of H301 adopts the amendments adopted by the National Conference of Commissioners on Uniform State Laws.*

PART 10A. FRAUDULENT CONVEYANCES TO AVOID CHILD SUPPORT

42 USC 666(g) requires that states have in effect either the Uniform Fraudulent Conveyances Act of 1981, the Uniform Fraudulent Transfers Act of 1984, or another law specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor. *Part 10A of H301 establishes a law creating indicia of fraud. However, House Bill 407, the Uniform Fraudulent Transfer Act, is currently under consideration in the Senate. Section 11.1 of H301 provides that if the General Assembly enacts H407, then Part 10A of H301 is repealed. If H407 is not enacted, then Part 10A would conform to the federal fraudulent transfer requirement.*

A copy of this memorandum has been provided to the Fiscal Research Division for incorporation into its certification of the fiscal impact of H301.

/gw

cc: Mr. Tom Covington

Ms. Karen Hammonds-Blanks

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

NOTE: THIS NOTE REVISES THE NOTE ISSUED ON 11 JUNE 97

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*(This fiscal note along with the attached certification, fulfills the requirements of
G. S. 120-36.8, Certification of Legislation Required by Federal Law.)*

BILL NUMBER: House Bill 301 (Committee Substitute 4/28/97)

SHORT TITLE: Child Support Support/Federal Requirements

SPONSOR(S): Representative Charlotte Gardner

FISCAL IMPACT

	Yes (X)*	No ()	No Estimate Available ()		
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
EXPENDITURES	\$8,048,038	9,280,563	8,818,163	8,911,763	9,030,563
REVENUES					
(Federal)	\$5,335,638	6,125,172	5,819,988	5,881,764	5,960,172
<u>APPROPRIATIONS*</u>	\$2,712,400	3,155,391	2,998,175	3,029,999	3,070,391

***Funding for HB 301 is appropriated in both the House and Senate versions of the budget bill (SB 352) through the continuation budget for the Division of Social Services. Existing State appropriations from the Work First program are being reallocated to meet the child support enforcement mandates of federal welfare reform. There are NO increased appropriations.**

POSITIONS: 13 FTE's

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Human Resources (DHR) and Administrative Office of the Courts (AOC)

EFFECTIVE DATE: October 1, 1999 for Section 8 .1; all other sections October 1, 1997.

BILL SUMMARY: This bill implements fifteen (15) specific sections of Public Law 104-193, The Public Responsibility and Work Opportunity Reconciliation Act of 1996 (also known as federal Welfare Reform), which modifies states' Child Support Enforcement operations. A brief description of each bill part and corresponding fiscal information are contained in the following section.

ASSUMPTIONS AND METHODOLOGY: The following assumptions were used in the applicable parts/sections: (1) federal financial participation for automation costs will continue at the enhanced rate of 80% for FY97/98; and (2) federal financial participation for operations (i.e., staff) and automation (beyond the enhanced period of reimbursement) will continue at the rate of 66% for FY98/99 - FY01/02.

Part 1. State Directory of New Hires: Amends G.S. 110-129.2 to require DHR to establish and maintain an automated directory of information supplied by employers on each newly hired employee. The purpose of the directory is to assist in the location of persons owing child support and enforcement of child support orders.

Projected costs assume DHR will contract for development, implementation and ongoing operation of the automated directory. These costs were derived in consultation with staff from the Employment Security Commission, SIPS, DHR's Division of Information Management (DIRM) and information obtained from other states. These costs also include system modifications in order to allow the state directory of new hires to interface with the State's child support enforcement system, Automated Collections and Tracking Systems (ACTS), and one (1) new state position to support interaction between the vendor and the State and to provide training and information to employers regarding system requirements. Projected costs are as follows:

Part 1.	State Directory of New Hires	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
	Vendor system develop/implement	\$ 4,850,000	-	-		
	ACTS Modifications	67,000	-	-		
	Equipment for state position	3,761	-	-		
	SIPS charges	120,000	132,000	158,400	158,400	158,400
	State Position (Lead Support Agent)	25,201	33,600	33,600	33,600	33,600
	Annual vendor contract cost	-	968,000	1,080,000	1,188,000	1,306,800

Part 2 and 2A. Expanded Authority of the Department to Enforce Child Support Orders and to Establish Paternity: Provides the Department with additional authority to expedite administrative processes involved in child support orders and paternity establishment. The bill also implements federal requirements pertaining to when due process requirements for notice are met in child support proceedings.

Projected costs include modifications to ACTS to record administrative actions and tracking in case records of expedited procedures.

Part 2.	Expedited Procedures/Health Care	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
	ACTS modifications	27,000	-	-	-	-

Part 3. Authorize Judges to Impose Work Requirements on Obligor Who are in Arrears in Child Support and Require Parents to Provide Medical Support: Requires judges to impose work activities under appropriate circumstances and requires procedures under which child support orders are required to include a provision for health care coverage of the child, when this coverage is available to the non-custodial parent at a reasonable cost.

Projected costs include one-time costs for modifications to ACTS to support the usage of additional court order terms and associated tracking and reporting, and to track enrollment and subsequent changes in health care plans for children when the non-custodial parent changes employers.

Part 3.	Work Requirements	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
	ACTS modifications	1,875	-	-	-	-

Part 3A. Conform State Tax Intercept law to Federal Requirements: Changes the way support collected through state and federal income tax intercept procedures is distributed.

No projected costs.

Part 4. Requirement to Provide Social Security Numbers on Certain Documents: Requires the state to, effective October 1, 1998, maintain a central registry of all new and modified child support cases which flow through the judicial system (not through Child Support Enforcement Offices). Also requires that social security numbers to be recorded on existing documents including child support orders.

Projected costs include modifications to ACTS to include child support information currently maintained by the Administrative Office of the Courts (AOC); contract data entry costs related to the increase in cases (assumed from AOC); SIPS processing charges; and modifications to ACTS to include reported social security numbers on existing documents and reports. Projected costs are as follows:

Part 4.	State Case Registry	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
	ACTS Modifications (66% FFP)	350,000	-	-	-	-
	ACTS Modifications (80% FFP)	2,125	-	-	-	-
	Data entry	450,000	450,000	450,000	450,000	450,000
	SIPS charges	240,000	264,000	316,800	316,800	316,800
	Social security number reporting	4,500	-	-	-	-

Part 4A. Paternity Establishment Proceedings: Requires paternity establishment proceedings which include: genetic testing, presumption of paternity based on genetic test results, legal finding of paternity subject to rescission, no jury trial, and temporary support order contested when there is a substantial probability that the individual is the biological father.

Costs include the creation of eight (8) additional state positions (5.0 Child Support Agents and 2.0 Paralegals) and two (2) contract attorneys to form Paternity Establishment Teams responsible for training local public health departments, prenatal clinic staff and other medical professionals on paternity establishment. Costs also include a public awareness campaign and minor system modifications to implement a new paternity establishment form and tracking. Projected costs are as follows:

Part 4A. Paternity Establishment Proceedings	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
Public awareness materials	300,000	300,000	-	-	-
ACTS modifications (80% FFP)	5,500	-	-	-	-
Equipment for state positions	34,888	-	-	-	-
Paternity teams (8.0 CSE staff)	318,921	486,959	486,959	486,959	486,959

Part 5. Suspension/Revocation of Licenses for Failure to Comply with Subpoena: Requires certain licenses be subject to suspension/revocation when an individual owing support or alleged to be the biological father fails to comply with a subpoena issued in a child support case.

Projected costs include modifications to ACTS to provide tracking and reporting on license suspensions/revocations.

Part 5. Suspension/Revocation of Licenses	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
ACTS modifications	5,400	-	-	-	-

Part 6 and 6A. Income Withholding and Expedited Procedures for Income Withholding: Decreases the time from 10 to 7 days in which employers must implement withholding procedures and requires that income withholding procedures be implemented automatically in IV-D (non-AOC cases) child support cases by employers when non-payment of support occurs.

Part 6. No projected costs.

Projected costs include ACTS modifications to institute automatic income withholding notices within two (2) business days of receipt of a new hire report.

Part 6A. Expedited Procedures/Income Withhold	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
ACTS modifications	6,300	-	-	-	-

Part 7. Establishment of a Lien on Real and Personal Property of Person Owing Past-Due Child Support: Requires a procedure for obtaining a lien against real and personal property when an individual is three (3) months or \$3,000 delinquent (whichever comes first) in support. Provides for verification of information, filing, executing and discharging the lien, and imposes a penalty for failure to discharge.

Projected costs were obtained from staff in DIRM and include changes to the financial structures in ACTS associated with the processing of liens and related documents.

Part 7. Lien on Real and Personal Property	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
ACTS modifications	20,000	-	-	-	-

Part 8. Department of Human Resources to Develop Automated Data Processing and Information System, and Centralized Collections and Disbursement System for the Enhancement of Child Support Collection and Disbursement: Directs DHR to take the necessary steps to comply with federal requirements for an automated statewide child support system, and requires all child support be collected and distributed by a central collection unit (no later than October 1, 1999).

Projected costs assume the Department will contract all aspects of the central collection and disbursement unit. Estimates for these services were derived from information obtained from other states, AOC, and from DIRM staff familiar with the ACTS system. Other costs include the SIPS processing costs related to collection and disbursement data; a one-time cost of \$500,000 to allow the contractor to connect to ACTS and one (1) staff position to serve as the point-of-contact between the contractor and the State to assure compliance with federal requirements. Projected costs are as follows:

Part 8. Centralized Collections/Disbursement	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
RFP develop/eval/contract award costs	145,000	-	-	-	-
Contractor automated systems costs	-	500,000	-	-	-
Contractor operating costs	-	4,827,645	4,827,645	4,827,645	4,827,645
Equipment for state position	3,761	-	-	-	-
State Position (Accountant II)	34,172	45,561	45,561	45,561	45,561
SIPS charges	480,000	528,000	633,600	633,600	633,600
Parental locator service	12,750	-	-	-	-

Part 9. Financial Institutions/Data Match System: Authorizes DHR and financial institutions to enter into agreements to establish the data match system, under which financial institutions must provide certain information regarding a non-custodial parent who maintains an account at the institution and is delinquent in child support. Financial institutions may charge a fee for providing the match but the fee may not exceed the actual cost of conducting the data match. Projected costs were developed based upon other states' experience and information obtained from N.C. financial institutions. They are as follows:

Part 9. Financial Institutions/Data Match	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
ACTS modifications	54,000	-	-	-	-
SIPS charges	120,000	132,000	158,400	158,400	158,400
Financial institution fees	264,000	528,000	528,000	528,000	528,000

Part 10. Amend Uniform Interstate Family Support Act (UIFSA): Adopts conforming amendments regarding uniform state laws.

Projected costs include three (3.0) positions (effective 10/1/97) to support expanded interstate tracking, response, and reporting activities; equipment for the new staff and modifications to ACTS in order to accommodate additional information now required.

Part 10. Uniform Interstate Family Support Act	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
ACTS modifications	27,000	-	-	-	-
Equipment for state positions	11,283	-	-	-	-
State positions (3.0 Processing Assist.)	63,601	84,798	84,798	84,798	84,798

Part 10A. Fraudulent Conveyances to Avoid Child Support: Establishes a law, regarding the fraudulent transfer of income or property to avoid payment to a child support creditor.

Projected costs include modifications to ACTS in order to tract current terms of court orders and produce a chronological summary of events. Modifications must be operation by the year 2000.

Part 10A. Fraud/Transfers to Avoid Support	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
ACTS modifications	-	-	14,400	-	-

HOUSE BILL 301	FY97/98	FY98/99	FY99/00	FY00/01	FY01/02
TOTAL COSTS	\$ 8,048,038	\$ 9,280,563	\$ 8,818,163	\$ 8,911,763	\$ 9,030,563
FEDERAL REVENUE	5,335,638	6,125,172	5,819,988	5,881,764	5,960,172
STATE APPROPRIATIONS	\$ 2,712,400	\$ 3,155,391	\$ 2,998,175	\$ 3,029,999	\$ 3,070,391

TECHNICAL CONSIDERATIONS: House Bill 407, the Uniform Fraudulent Transfer Act, is currently under consideration in the Senate. Section 11.1 of HB 301 provides that if the General Assembly enacts HB 407, then Part 10A of HB 301 is repealed.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Karen Hammonds-Blanks and Gann Watson

APPROVED BY: Tom Covington

DATE: June 17, 1997



Signed Copy Located in the NCGA Principal Clerk's Offices