BACKGROUND

A. BACKGROUND

Background

Nevada's child support program employs 462 FTEs dedicated, hard-working individuals collecting support for Nevada's children. The key to the collective future success of the program is for child support staff at the state and local levels to work in unison, focus on performance, more efficiently use the tools already provided, and combine resources to take advantage of automated approaches that aid their efforts. This effort requires a change in the historic relationship between the state and the county employees who are part of the child support program, from one that is parochially-driven to support a worker's office's insular priorities to one that sustains statewide success and stresses individual and group performance.

Nevada has a child support program that was built for the 1970s, when Congress passed Title IV-D of the Social Security Act.[1] Congress required every state to operate a statewide child support program as a condition of federal funding for both the welfare and child support programs. At the time, Title IV-D was conceived primarily as a welfare reimbursement mechanism for states, recouping the states' share of welfare expenditures.

District Attorneys (DAs) had a significant role in child support before the passage of Title IV-D. The Uniform Reciprocal Enforcement of Support Act (URESA), first promulgated in the 1950s[2], required district attorneys to provide child support services in interstate cases. By the mid-1970s, every state had a version of URESA or its revised version. In Nevada, the DAs used URESA to prosecute cases where the parents lived in different states.

As an offshoot, Nevada evolved into a bifurcated program after Title IV-D was promulgated in 1975, with the state Program Area Offices (PAOs) performing child support functions to establish child support orders in welfare (now known as TANF) cases, and the DAs' offices performing enforcement functions for all cases and the intake and establishment functions for the non-welfare cases.

Initially, Nevada's caseload was a small percentage of non-welfare cases in the IV-D system. Congress originally paid for 75% of the administrative costs of the program, matched by a state or local share. The federal share of the administrative cost, FFP (Federal Financial Participation), was offered to the states if they, as a condition of receiving their IV-A (welfare) and IV-D funding, passed certain laws and met certain timeframes that added functional and procedural uniformity to state IV-D programs. Congress created the federal Office of Child Support Enforcement (OCSE) to oversee the state programs, and provide policy and technical guidance.

In the 1980s, Congress passed additional child support provisions to the IV-D program that expanded the enforcement powers of the state child support agency (and to those under contract to it, such as the DAs)[3]. Congress required states to add new tools such as income withholding, liens on real and personal property, and federal tax return refund offset, as a condition of continued federal funding. Administrative process and quasi-judicial process were emphasized. Presumptive guidelines to set support orders became applicable not only to IV-D cases, but to all cases (the non IV-D caseload consists of

private attorney and pro se cases). In the Family Support Act of 1988 (FSA) Congress required every state to have a statewide case-management system for its IV-D program (originally to be completed by 1995 and later extended to 1997). Congress reduced FFP to 66%, requiring states to match with state or local contributions totaling 34%. Many states partially funded their program with the state share of TANF reimbursement (which Nevada does today). Millions of dollars of federal incentives were available to states and were based on a percentage of collections, with non-welfare incentives capped at 115% of the welfare collection incentive amount.

In the 1990s, Congress again enhanced the program by requiring states to pass laws that added affidavit/acknowledgment paternity determination, administrative powers to order genetic testing, issue subpoenas and interstate liens (if perfected based upon local rules), and the freezing and seizing of assets, including bank accounts and other personal property. The Personal Responsibility and Work Opportunity and Responsibility Act of 1996 (PRWORA) revamped and block-granted the welfare program (changing the grant acronym from ADC/AFDC to TANF) yet prescribed more enumerated powers for the child support agencies. Every state had to have the new version of URESA, UIFSA (the Uniform Interstate Family Support Act), a centralized collection and disbursement unit, and immediate income withholding. States were also required to have statewide automated systems in place, with PRWORA-mandated enhancements, by October 1, 2000. Some states missed meeting the 1997 FSA deadline as well as the 2000 PRWORA enhancement deadline. Nevada received certification for both FSA and PRWORA requirements in May 2001. The rush to achieve certification for state systems often resulted in hurried development with insufficient testing and inadequate data cleanup during conversion from the legacy system to the certified system.

By the end of the 1990s, Congress revamped the funding structure and emphasis from a focus on timeframes and procedures to a focus on performance. The FFP rate remained at 66%, but the incentive formula was changed to reflect a state's success in program outcomes: paternity determination; order establishment; current support collected; cases with arrearages receiving payments; and, cost effectiveness. The Child Support Performance and Incentives Act of 1998 (CSPIA) included a transition period to the new incentive methodology, allowing states time to adjust their focus to performance results. See *Exhibit A-1: Key Federal Child Support Legislation Since 1975* below.

Key Child Support Legislation	Highlights
1975 – Passage of Title IV-D of the SSA (Public Law 63-457)	Start of the IV-D program, requiring states as a condition of federal funding for IV-A and IV-D to have a statewide CSE program and meet other requirements; creation of federal OCSE
1981 – Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35)	Tax refund offset for welfare and non-welfare cases
1984 – Child Support Enforcement Amendments of 1984	Enforcement tools such as income withholding and liens
1986 – "Bradley Amendment"	Prohibition against retroactive modification and reducing a CSE past due debt to money judgment by operation of law

Exhibit A-1: Key Federal Child Support Legislation Since 1975.

Key Child Support Legislation	Highlights
1988 – Family Support Act of 1988	Statewide systems requirement, mandatory guidelines to set support amounts, immediate income withholding, review and adjustment protocols in IV-D cases
1992 – Omnibus Budget Reconciliation Act of 1992	Paternity acknowledgment and in-hospital paternity; federal criminal nonsupport
1996 – Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Centralized collections, enhanced federal data matching for locate purposes, state central registries, UIFSA, administrative enforcement powers, additional systems requirements
1998 – Child Support Performance and Incentives Act of 1998	New incentive formula based on five performance categories
2006 – Deficit Reduction Act of 2006	Eliminating federal match for incentives, imposing a $25 annual fee for never-TANF cases, ordering health coverage against custodial parents as well as non-custodial parents, simplified distribution

Exhibit A-1: Key Federal Child Support Legislation Since 1975.

States henceforth competed for a set pot of incentive dollars that required states to maximize performance to receive a disproportionately greater share of the pot compared to the state's percentage of the national caseload. Thus, a high-performing state may receive more incentive dollars than a state with a similar caseload that was not performing at an equivalently-high level. Each state's baseline potential for its share of the incentive pool is based on collections: (TANF- and former-TANF case collections, which are doubled, and never TANF-case collections, are added together to form the *potential* incentive amount a state could receive). How well the state performs in the five performance categories leads to a determination of how much of the potential pool the state actually receives.

By the start of this century, the federal auditors were less interested in compliance with timeframes than they were in accurate data to determine how well a program was performing. Also, the OCSE National Strategic Plan, developed jointly with the state IV-D programs, focused on performance outcomes. Since PRWORA in 1996 and CSPIA in 1998, almost every child support program around the country has focused primarily on performance and secondarily on procedural and policy adherence. Nevada's current primary emphasis on policy adherence is the only known exception.

Today, the federal government oversees a Title IV-D program that collected $23 billion in FY05 in over 15.8 million cases. About 12 million cases had orders and 8.3 million cases had some collections. Nevada's program in FY05 collected and distributed over $115.5 million in 114,440 cases. OCSE today is emphasizing customer service, payment-delinquency prevention and early detection, and medical support enforcement (the latter may become a sixth incentive indicator in the next few years). Data mining and individual, unit, office and state performance accountability are being stressed by both the federal and state child support offices nationwide.

Methodology

MAXIMUS used the SURE (Scan, Understand, Recommend, and Execute) Methodology to conduct the research and analysis for this report.[4] SURE methodology in its detail can be found in our proposal in response to the Request for Proposal, October 24, 2005, issued by the Legislative Audit Bureau. At a high level, we **S**canned or gathered research data by requesting reports and other documentation and took every effort to gain a complete **U**nderstanding of the information provided. Based upon the information and data and our understanding, **R**ecommendations are made. The **E**xecution of the recommendations will be at the discretion of the state and the counties.

The findings and recommendations for this report are outlined in detail in each of the following chapters. A full list of all recommendations in this report can be found in *Appendix K: Recommendations.*

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[1] Title IV-D of the Social Security Act, 42 U.S.C. §651 et seq. (1975).

[2] The Uniform Reciprocal Enforcement of Support Act (1950, 1952, 1958) and the Revised Uniform Reciprocal Enforcement of Support Act (1968) were promulgated by the National Conference of Commissioners on Uniform State Laws. Eventually every state had a version of URESA/RURESA or its predecessor, the Uniform Support of Dependents Act. Nevada replaced its version of RURESA in 1997 with the Uniform Interstate Family Support Act (UIFSA), the successor to URESA/RURESA, *see* NEV REV. STAT. §§130.0902 – 130.802.

[3] The Child Support Enforcement Amendments of 1984, "Bradley Amendment" (1986), and the Family Support Act of 1988, 42 U.S.C. §651 et seq.

[4] MAXIMUS is a provider of outsourcing and consulting services in child support. The company committed at the start of the audit to solely evaluate the program based on our findings and best practices gleaned from around the country, and not to advocate without foundation any specific change that could favor outsourcing or MAXIMUS. We pledge to Nevada that nothing drafted within this report was written with a bias of tilting a recommendation towards a private sector or MAXIMUS solution to a problem. If outsourcing is the end result of a recommendation, it will be based on an independently-derived decision of the legislature.