

TEXT, EXPLANATION AND INTERPRETATION OF AMENDMENTS  
MADE TO THE SOCIAL SECURITY ACT BY SECTION 124  
OF P.L. 100-485. THE FAMILY SUPPORT ACT OF 1988

1. Text of Amendments to the Social Security Act Made by Section 124 of P.L. 100-485.

- a. Amendment to section 453(e), SSA. Section 124(x), P.L. 100-485, amended Section 453(e), SSA, by adding at the end the following new paragraph:

(3) The Secretary of Labor shall enter into an agreement with the Secretary [of Health and Human Services] to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.

- b. Amendment to Section 303, SSA. Section 124(b)(1) of P.L. 100-485 amended Section 303, SSA, by adding at the end the following new subsection:

(h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under Title IV.

(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.

- c. Companion Amendment to Section 304(a)(2). Section 124(b)(2) amended Section 304(x)(2), SSA, by striking "or (e)" and inserting in lieu thereof "(e), or (h)".

2. Discussion.

- a. In General. Section 453. SSA requires the Secretary of Health and Human Services to establish and conduct a Federal Parent Locator Service (FPLS). The mission of the FPLS is to obtain and transmit to any authorized person (as defined under Section 453(c)) information as to the whereabouts of any absent parent. This information is to be used to locate the parent for the purpose. of enforcing child support obligations.

Section 124(a) of P.L. 100-485, added new paragraph (3) to Section 453(e). This new paragraph requires the Secretary of Labor to enter into an agreement with the Secretary of Health and Human Services. Under this agreement, the FPLS will be given prompt access to wage and unemployment compensation claims

information and data maintained by or for the Department of Labor or SESAs. Under Section 124(c)(2), the Secretaries of Labor and Health and Human Services must enter into this agreement within 90 days following the date of the enactment of P.L. 100-485.,

Section 124(b)(1) of P.L. 100-485 added new subsection (h)(1) to Section 303, SSA to require the State agency charged with the administration of the State UC law (i.e., the SESA) to give the FPLS prompt access to wage and UC claims information useful in locating an absent parent or the parent's employer for purposes of administering the child support enforcement provisions of Title IV, SSA. Under this provision, the actions the SESAs are required to take may be provided for in the agreement between the Secretaries of Labor and Health and Human Services.

The information covered by Section 303(h)(1) includes any wage and UC claims information that might be useful in locating an absent parent or the parent's employer for purposes of carrying out the child support enforcement program under Title IV, SSA. Under the agreement required by Section 453(e)(3), a SESA will be required to grant access to information that it has or that is maintained for it by another agency. SESAs are not, however, required to obtain additional information for the use of the FPLS.

Granted funds under Title III may not be used to pay any costs of administration of Section 303(h). As noted in the Conference Report (H.R. Rep. No. 998, 100th Cong., 2d Sess. 103), "[c]urrent law provides for the Department of HHS to reimburse the costs incurred by States and Federal agencies in providing information to the Federal Parent Locator Service." Therefore, any administrative costs incurred by SESAs that are associated with Sections 303(h) and 453(e) will be borne by the Department of Health and Human Services.

Further details regarding the agreement between the Secretaries of Labor and Health and Human Services, the implementation of Section 303(h), and the method of billing and reimbursing costs of administration will be issued at a later date.

Subsection 124(b)(1) also added new Section 303(h)(Z), SSA, requiring denial of administrative grants to any State upon the finding of the Secretary, after reasonable notice and opportunity for hearing to the SESA, that there is a failure to comply substantially with the requirements of new Section 303(h)(1). Finally, Section 124(b)(2) of P.L. 100-485 amended Section-304(a)(2), SSA, to provide for judicial review whenever the Secretary makes an adverse finding under Section 303(h)(2).

- b. Safeguards on Granting Access. Section 303(a)(1), SSA, has been interpreted to require that sufficient safeguards exist to ensure that any disclosed wage and UC claim information be used only for the purposes for which it is disclosed. Section 303(h) requires disclosure only for purposes of "carrying out the child support enforcement program under title IV." Therefore, the Department interprets Sections 303(a)(1) and 303(h)(1) as requiring the States to establish sufficient safeguards, including such safeguards as the Department of Labor may require, to assure that access to the information is restricted to the FPLS and that the information given the FPLS is used only for the purposes specified under Section 303(h)(1).
  - c. Amendments to State Law. Most State laws now permit information in the SESA's records to be disclosed to public officials in the performance of their public duties. In addition, section 303(f), SSA, requires SESAs to provide information for purposes of the income and eligibility verification system created by Section 1137, SSA. SESAs will need to review State laws to determine whether existing provisions provide sufficient authority to grant access to the FPLS or whether an amendment to State law is needed. If an amendment is necessary, State law should be amended by the effective date discussed in Section 3 of this attachment.
3. Effective Date. New Section 303(h)(2) requires that SESAs must substantially comply with the requirements of Section 303(h)(1) as a condition for receiving administrative grants under section 302(a) of the SSA. Section 124(c)(1) of P.L. 100-485 specifies that the amendments made to Section 303(h):

. . . shall become effective on the first day of the first calendar quarter which begins one year or more

after the date of the enactment of this Act.

Since P.L. 100-485 was enacted on October 13, 1988, the requirements of Section 303(h)(1) become a condition for receiving administrative grants on January 1, 1990. This means the State law must provide for granting the FPLS prompt access to wage and UC claims information as provided by any agreement between the Secretaries of Labor and Health and Human Services. by January 1, 1990.