

The Impact of Block Granting AFDC

by Molly McKay



A. Introduction

The Personal Responsibility Act (PRA), is the latest attempt by Congress to reduce welfare dependency. The PRA would convert the federal entitlement status of the AID to Families With Dependent Children (AFDC) to state block grants called Temporary Assistance to Needy Families (TANF). Returning the responsibility for social services to the states will promote flexibility in redesigning programs to get recipients off welfare. However, the legislation does impose eligibility restrictions aimed at behavior modification and is meant to reduce overall spending for these programs.

The United States has a history of ambivalence towards welfare benefits for able bodied women and their dependents. The current push to get AFDC mothers into the work force is not new. The federal government has been trying to impose work requirements for over twenty five years. [1] Workfare used to mean "work relief" -- requiring people to work in return for their welfare grant. Today, "Workfare" connotes a much broader definition that includes job searches, training and drug and alcohol treatment attendance. [2] However, the track record for work requirements for welfare recipients has not proved very successful at reducing the number nor the need for assistance.

B. History of AFDC

1. Assistance to Single Mothers

Prior to the Great Depression, care for the poor was primarily relegated to local communities in the form of almshouses, orphanages, and charities. [3] The nineteenth century saw the rise of categorical-aid for particular categories of the poor who were considered "blameless" poor. [4] All local and state public welfare programs were discretionary and notoriously under funded. [5] The first of the twentieth century categorical programs, Aid to Dependent Children (ADC), was enacted by states in 1911 and quickly spread throughout the country. This program, popularly called "Mother's Pensions," was designed to provide income for single mothers to maintain their homes. Historically the ADC was written and implemented to assist only the children of women who were white and widowed. [6] Unlike other poor women with children, white widows were considered to be the "deserving poor" who should stay home and provide a nurturing environment for their children. [7] The ADC program was a gesture only; the vast bulk of poor single mothers and their children went unsupported by the state. [8] The Great Depression provided the impetus for a national framework to provide assistance to the poor. Local government entities were staggering under the costs of providing relief. [9] The federal government stepped in and provided federal relief to all needy unemployed persons and their dependents through the Federal Emergency Relief Act of

1933. [10] This legislation was intended to be temporary. Legislators believed welfare undermined the value systems of the recipients and that cash based assistance was emotionally debilitating, while work fostered dignity. [11] The more permanent relief legislation, the Social Security Act of 1935, was limited to the few categories of long term "deserving poor," namely the elderly, and eventually the disabled, with a small amount of federal aid available for states who chose to provide cash assistance to certain "unemployables". The ADC was one optional state program that was covered by the Act. [12] The benefit covered assistance to the children only, until it was expanded to include benefits specifically for the mother in 1950. [13] Legislators viewed ADC as "designed to release from the wage-earning role the person whose natural function is to give her children the physical and affectionate guardianship necessary, not alone to keep them from falling into social misfortune, but more affirmatively to rear them into citizens capable of contributing to society." [14]

States were given broad flexibility to condition eligibility on various principals, such as the sexual morality of the recipient through "suitable home" or "man in the house" rules. [15] Some important federal requirements, however, were imposed. For example, programs had to be implemented statewide, eligibility standards were broadened by the federal government, and benefits had to be paid in cash. In addition, there were additional procedural requirements such as a fair hearing prior to the termination of benefits. [16] Contrary to the belief of the Social Security drafters, the ADC program did not decline and disappear. [17]

During the 1940's and 1950's, the ADC program expanded. From the New Deal to post-World War II, the patterns set during the Mothers' Pension era continued. There was some expansion during the war and the 1950s. The big changes started in the late 1950s, and took two contradictory paths. There was a period of liberalization of the AFDC program through landmark judicial decisions. The civil rights and welfare rights movements of the 1960's and 1970's resulted in the inclusion of many who had originally been excluded from the original ADC program. [18]

In 1970, the Supreme Court held that welfare benefits were legal entitlements and could only be withheld or terminated upon due process of law. [19] The Court stopped short of finding the benefit itself to be a fundamental right. [20] Welfare advocates were able to remove many of the barriers used to exclude African-American women from the welfare rolls. [21] As a result the number of African-American mothers on the program increased 15% between 1965 to 1971. By 1971, only 4.3% of AFDC recipients were widows. [22]

However, public response to the increase in number, and the demographic change in the AFDC population, began to concentrate on the "welfare crisis". By the 1980's, Congress responded to the Court's decisions by clamping down on the program in a number of ways. Sometimes with thinly disguised racial overtones, policy makers began to focus on costs, the moral consequences of marital disruption, single parenthood, and generational dependency. [23] Over time there came to be a dramatic tightening of administrative practices and the program became much more bureaucratic. [24]

2. Workfare for Single Mothers

Joel Handler, a welfare expert, suggests that the best indicator of whether a category is viewed as deserving or undeserving is whether or not there is a work requirement. [25] Historically, the bulk of single mothers with children have always been expected to work.

Not only did many states have work requirements within their ADC programs, but since most women were ineligible for this program in the first place they had to work or starve.

The Work Incentive Program, (WIN), passed in 1967 was the first federal work requirement. It was initially mandatory for males and voluntary for females. [26] Congress, responded to the continued increase of the welfare rolls, by again toughening the work requirements in 1971 (WIN II or the Talmadge Amendments). [27] The focus of WIN II shifted from education and institutional training to placement in entry level jobs. This new legislation did little to remove AFDC recipients from the rolls. Under the best case scenario, WIN was able to reduce the number of recipients less than two percent, and of those removed, a third were paid less than the minimum wage. The vast bulk of the population was unaffected. [28]

In 1969, President Nixon proposed abolishing AFDC and replacing it with a guaranteed annual income for poor families with children under 18 called Family Assistance Program (FAP). The guaranteed income would take the form of a negative income tax (NIT). A recipient could increase family income through additional work. However, this bill was never reported outside the Senate Finance Committee, and the Senate defeated a substantially revised proposal in 1972. [29]

The Reagan Administration attempted to clamp down on AFDC payments. Work-related expenses were reduced and Congress allowed the states the option of imposing such requirements through Community Work Experience (CWEP). The Reagan Administration began the trend away from the notion of welfare as an "entitlement", and moved toward the concept of "mutual obligation."

3. California's Experience with Welfare to Work Programs

San Diego was the first city in California to take advantage of the CWEP's authorization to impose work requirements. Its Experimental Work Experience Program (EWEP) consisted of two approaches: (a) the participant could attend a three-week workshop and a two-week self directed job search in a group setting; or (b) if the participant was unable to find a job, he or she would be required to work in an unpaid public or private nonprofit job. [30]

Although three quarters of the sample participants were identified at one time or another as noncompliant, and 10% were actually sanctioned, participation levels were high. [31] Most participants' education and work history surpassed the national welfare population average, and had a positive attitude towards the program. [32] In addition, at the time of the experiment, San Diego was experiencing rapid economic growth. However, the program's results were modest: only 5-10% higher than those in the control group. [33] Despite this record, the San Diego experiment inspired the statewide GAIN program.

The California Greater Avenues for Independence Program (GAIN) is the largest welfare to work program in the country; it combines an extensive amount of education and training along with a traditional emphasis on job search and quick placement in entry level jobs. [34] Under GAIN, all eligible recipients, including mothers whose children are over three years of age, are required to participate in the program until they become employable or leave welfare. Recipients must undergo orientation and appraisal before being placed. For example, those with work experience go immediately to job search. Others might go to remedial education. The state develops employment plans for those

unable to find jobs. Those who complete the plan but fail to find a job within 90 days will receive work for relief.

The program, however, is riddled with contradictions. It aims to deter the able-bodied from receiving benefits and yet offers an attractive package of services. [35] It is supposed to give priority to long term users, but performance-based contracts with vendors encourages "creaming", a process by which the program targets the most able-bodied recipients who would probably get jobs anyway. While the ultimate goal is to move recipients from welfare to jobs, numerous safeguards allow recipients to refuse jobs that pay less than the monthly AFDC grant. [36] The program provides extensive services but has a built in disclaimer in case it experiences a lack of resources. Although the program is state mandated, implementation is left to county initiative, which creates a wide variation in the program operation. Finally, the jobs are heavily dependant on the local economy.

The implementation of the program experienced almost immediate budget cuts due to the state's serious fiscal problems. [37] Only about of those registered actually attended the basic education or job search component of the program. The other two thirds were de-registered or deferred. [38] Also, initial assessment revealed that a high number of registrants had basic literacy deficiencies, in effect changing GAIN from a job program to a massive comprehensive education program. [39]

The most successful GAIN program, according to an MDRC study, was the one in Riverside County. [40] Its program is becoming the standard-bearer and model not only for proposed changes in California but for the rest of the country as well. No single factor, says the report, can account for Riverside's uniform results across all subgroups. Rather its success resulted from the combination of the pervasive employment message, job development registrants, a willingness to use sanctions to reinforce the seriousness of the requirements, and a strong local economy.

As the MDRC report notes, there are many benefits to employment, such as self esteem, proper role models and increased independence. But there are also costs, and the fact that the control recipients earned nearly as much as the experimental recipients suggests that the control recipients were also working. [41] The similarity in the monthly incomes confirms Edin and Jenck's findings about recipients working in the informal economy, [42] Riverside may only be getting the experimental recipients to switch to the formal economy. In any event, the actual benefits to the recipients of the Riverside program are very modest.

Finally the report cautions that it is not clear whether the Riverside program could be replicated elsewhere. The variation among different Riverside offices suggests that its program could be replicated. On the other hand, its emphasis on job development and quick employment may not work in the inner city areas or more rural areas with high rates of unemployment. [43] With the exception of Riverside, the GAIN experience as a whole closely resembles the experience of the whole country under the Family Support Act, which went into effect in 1990. [44]

4. The National Implementation of JOBS

The Family Support Act of 1988 codified state workfare options. The program was made mandatory for mothers with children over the age of six and states were allowed to

extend this requirement to mothers with children as young as one. [45] The Act also allowed the states to require an unmarried minor parent to live with her own parent or legal guardian as a condition of aid. [46] The Act required every state to establish a Job Opportunities and Basic Skills Program (JOBS) -- a program that coupled a training and work requirement with guaranteed child care [47] -- however, there were enough loopholes to allow the states to be tough or lenient. [48] The JOBS program gave phased-in amounts of federal matching money for job training, child care, and other state services designed to move recipients from welfare to work. [49] However, unable to produce the entire state portion of the matching moneys, the states actually claimed only sixty percent of the funds set aside for the JOBS program. [50]

C. The Current Approach to "Ending Welfare as We Know It"

1. The Liberal/Conservative "Consensus" on Work Requirements

The popularity of welfare for AFDC recipients is not strictly partisan, but the rationales are different for liberals and conservative proponents. The justifications that Liberals give for supporting welfare is that because the majority of non-poor mothers, even of small children, are now in the work force, societal norms have changed. Therefore it is reasonable to expect a similar obligation on the part of welfare mothers. [51] The Conservative proponents, on the other hand, cite AFDC as a source of federally supported moral decay. Lucie White, a poverty advocate has described the Conservatives' attitude towards the existing AFDC program:

The rhetoric of the current 'welfare reform debate goes something like this: Aid to Families with Dependent Children (AFDC) recipients are themselves responsible for their poverty because they have not pulled themselves up by their bootstraps; they are dysfunctional mothers incapable of fitting into mainstream society, and they are economically and emotionally atrophied because of their dependence on welfare. Proponents of 'welfare reform' further argue that by withholding AFDC benefits, the government can transform present recipients into productive members of society, thereby solving the intractable problems of poverty. Consistent with this rhetoric, the current 'welfare reform' proposals condition AFDC on conformity with putative norms of society. Underlying the proposals is the belief that the receipt of assistance is debilitating. [52]

Though the rationales are different, policy makers have come to a consensus that welfare reform is needed. One of the centerpieces of that reform should be a work requirement for AFDC recipients.

2. Analysis of Work Requirements: Doomed to Fail

Joel Handler, a leading welfare policy researcher, outlines why a welfare reform policy framed in terms of moving recipients from welfare to the paid labor force is likely to fail due to three fundamental problems. [53] First, though the welfare programs have some problems, the focus should be on poverty, which is much broader and more serious than welfare alone. In 1992, based on the federal poverty line, 36 million Americans live in poverty. [54] The number of welfare recipients was 13.6 million, (only of those in poverty.) [55] Twenty-five percent of all children now live in single parent households. [56] Two thirds of these households will experience at least some poverty while they are growing

up. [57] Since almost all of these single parents are women, and disproportionately women of color, gender and racial discrimination also limits their ability to make a living.

Handler also points out that policy makers envision "work" as full-time, steady employment, at decent wages and with benefits. This however, is becoming increasingly untrue for significant portions of the labor force, which consists of less than full-time employees without benefits and health care. [58] AFDC recipients are typically less educated, mothers of young children and disproportionately persons of color, overall earnings are declining despite general economic expansion. [59] More significant, however, is the rise of 'contingent work,' typically low-wage, part time or other temporary jobs without benefits. According to the Bureau of Labor Statistics (BLS) almost two-thirds of the new entrants into the labor force by the year 2000 will be women, and they are more likely than men to hold part-time and temporary jobs. [60] By the turn of the century, 40% of all available jobs could be part-time. [61] These labor conditions greatly restrict the possibility of the very poor population to work its way out of poverty and pose a serious challenge to the proposed welfare to work reform. Another factor that contributes to the bleak picture for the less skilled worker is known as the 'spacial mismatch': jobs continue to leave the inner city for the suburbs." [62]

Finally, large numbers of welfare recipients, perhaps the majority, are already in the informal labor force. A recent study of welfare recipients found that an overwhelming number do work for the simple reason that single mothers on welfare cannot pay their bills on welfare alone; they have to obtain additional income, often without telling the welfare department. [63] The jobs held by those in Edin's study varied. Some held regular jobs under assumed names and earned on average \$5 per hour. Others worked 'under the table' in such jobs as bartending, catering, babysitting, sewing, earning on average of \$3 per hour. [64] Handler suggests that trying to move welfare recipients to "work," which more likely than not means a minimum wage, low skilled, no benefits, dead-end job will neither solve the poverty problem nor significantly reduce welfare.

D. The Move to Reallocate Responsibility from the Federal to the State Governments

1. The 1981 Block Granting of Social Services

Restructuring federalism was a major priority for the Reagan administration, as a way to return authority to the states. [65] Toward that end, he proposed a two stage process. First the federal grant system required drastic changes. Initially, Reagan proposed consolidating approximately 90 of the 300 federal categorical grants into three block grants with reduced funding. Block grants would remove categorical restrictions and turn most of the policy discretion over to the states. The states would be gradually expected to assume more responsibilities with less federal dollars, but the costs would be offset by the administrative savings and reduction in waste that state control would make possible. [66] The second stage of Reagan's proposal envisioned the states eventually would assume full fiscal responsibility for social programs under the rationale that states are more responsive to their own needs.

Reagan's restructured federalism had two primary objectives: retrenchment and devolution. The retrenchment objective was to cut federal grants-in-aid spending. The devolution concept was to transfer power and responsibility from the federal government

to the states. Poverty policy researchers reported that the primary outcome of these policy changes of 1981 were significant cuts to the poor. [67] Proponents of Reagan's restructured federalism did not dispute these concerns. Rather, they argued the difficult decisions of allocating scarce resources for some programs and not others should be left up to states' discretion. [68]

Congress consolidated 57 (instead of 84) categorical grants into nine (not three) block grants. Overall funds were reduced by 9 percent. Though not all of Reagan's proposals were enacted, the 1981 block grants consolidations represented the largest grant conversion in history. Throughout the decade, the Urban Institute undertook a series of studies to assess the effects of Reagan policies. One of these studies focused exclusively on block grants. [69]

In the Urban Institute study of the first four years of Reagan block grants, Peterson et al. (1986) surveyed eighteen states. [70] The study could not make clear-cut conclusions about the impact of the block grants because many states used their own resources to replace the federal funding. Offsets came primarily from federal funds carried over from previous years, more local funding and increased fee collections. [71] The poor quality or complete lack of data has been cited as a persistent problem in the assessment of the impact of block grants. The decentralization of government programs means that the federal agencies responsible for managing these programs no longer collect administrative information that had served indirectly as a source of federal statistics. [72]

2. Use of 1115 Waivers to Facilitate Welfare Reform at the State Level

AFDC has traditionally been a cooperative federal-state program stemming from the Social Security Act and regulations issued by the U.S. Department of Health and Human Services (HHS). AFDC is administered by each state, with some costs reimbursed by the federal government. States may make their own program rules, so long as they do not conflict with the federal statute or regulations. States are required to submit plans to HHS ensure that their programs comply with federal regulations, and must seek HHS approval each time they attempt to amend their state plan. [73] Since 1962, the SSA has included a provision permitting the Secretary of the HHS to grant waivers from the requirements of the statute to states for "experimental, pilot, or demonstration projects" that would promote the objectives of the Act. [74]

The states sought the 1115 waivers with gradually increasing frequency until 1992, when the Bush administration, followed by the Clinton administration, invited the states to submit waiver requests to promote experiments with welfare reform. [75] The move to entertain state reforms is in line with the move towards federalism. Using the so called Contract with America "mandate from the people," policy makers are bucking under the federal restrictions which keep the states from implementing new programs to get people off welfare. Political candidates have discovered that cutting welfare benefits has strong valence with voters. Until the recent Congressional approval of block granting AFDC, states have been given more responsibility for the AFDC program through the use of 1115 waivers. [76]

States have responded in large numbers to Presidential requests. Since January 1992, over 36 states have applied for 1115 waivers requesting HHS to grant them exemption from the AFDC regulations in order to institute their own version of the program. There is considerable evidence that waiver requests are not being scrutinized sufficiently. HHS

seldomly denied states' requests for waivers and granted them quickly, often within 30 days of application. [77] Waivers have sometimes been approved before a state has obtained the necessary state legislative approval. [78] Although the state projects approved by the HHS invariably are characterized as welfare experiments, the agency requires little articulation of the hypotheses a state intends to test, or the procedures by which it will evaluate those hypotheses. The agency does not generate a written record of the standards by which it evaluated the proposals. The agency has even approved waivers that were held later to be unconstitutional. [79]

Many of the states' welfare reforms are aimed at changing the behavior of welfare recipients. [80] Because projects that condition eligibility on behavior contravene the mandated eligibility requirements set forth on the SSA, they require HEW to waive the entitlement provisions under 42 U.S.C. 1315. Through this administrative mechanism, Presidents Bush and Clinton have embraced the use of welfare laws to attempt to modify behavior. Between 1115 waivers and provisions of the Family Support Act of 1988, Congress has confirmed and strengthened the broad scope of state discretion in the AFDC program. [81]

State experiments included not only work training programs, but also "learnfare," "family caps," and "bridefare." [82] Learnfare conditions eligibility for AFDC on the regular school attendance of minor children in the household. Family caps eliminate or reduce additional AFDC benefits for the support of children conceived after a mother begins receiving AFDC. Bridefare adds to the family cap notion small monetary incentives to recipient mothers to marry the father of their children. Some states also have considered proposals to give recipients incentives to use Norplant for contraception. [83] These requirements sit on top of existing demands for participation in paternity and child support actions, and compliance with visits by social workers. [84]

The programs being instituted by the states through 1115 waivers are the same programs that are likely to be adopted by the states under the Personal Responsibility Act. The national legislation echoes the states' interest in conditioning aid on behavior modifications. The research on the current state of welfare recipients suggests these approaches are misdirected.

E. The Current State of AFDC Recipients: Myths vs. Reality

The percentage of AFDC recipients in the total population has remained nearly constant for over twenty years. [85] By 1992, more than half of recipient mothers were never married, while slightly less than one third were divorced or separated. Between 1969 and 1992, the average AFDC family size decreased from 4.0 persons to 2.9 persons. In 72.7% of current AFDC families there are only one or two children. [86] The size of AFDC families is approximately the same or slightly larger than the average non-AFDC family. Less than one quarter (22.4%) of AFDC mothers have graduated high school. [87] Teen mothers are only a small portion of AFDC recipients. Of the 7.6% of AFDC mothers who are teenagers, over half are nineteen, over 80% are over eighteen, over 90% are over seventeen, and less than 2% are fifteen or younger. [88] The number of teen mothers has declined, but the economic conditions in which these young mothers find themselves have gotten tougher. African Americans and Hispanics are disproportionately recipients of AFDC. In 1992, whites made up 38.9% of the AFDC population while African Americans accounted for 37.2% and Hispanics 17.8% of the welfare population. [89]

Long term welfare is still very much the exception. Half of the recipients are on welfare for two years or less, and 62% receive benefits for four years or less. [90] Research based on monthly data shows a very dynamic welfare population. Many people go on and off welfare, a significant fraction (about half) have more than one spell. [91] During the first year of welfare, about half the recipients exit AFDC and almost three quarters exit within two years. However, many women who leave welfare rapidly also return within the first year. [92] With multiple spells accounted for, about 33% are still on welfare for less than two years, and only about 15% stay on welfare continuously for five years. [93] The overall picture is that one group uses welfare for relatively short periods of time and never returns. A middle group moves on and off, some for short periods and others for longer periods, but again, not for five continuous years. A third, but quite small group, continues to receive benefits for long periods of time. [94] Several studies have now documented that the most common route out of AFDC is through work. [95] Many have attempted to exit via work but then return for a variety of reasons: lack of health care, a breakdown in child care, other family caregiving responsibilities, or low wages and jobs that do not last. Still, more than 40% will leave to enter the labor force. Of those who leave welfare through earned income, about 40% will remain poor after their exit. [96] The picture that emerges from the studies of welfare spells and exits is that for most recipients, welfare is a safety net, rather than a "way of life". [97]

F. A Review of the Judicial Role in Welfare Reform

A brief review of the judicial posture towards enforcing welfare benefits suggests there is a growing unwillingness to interfere with state policy decisions. *King v. Smith*, [98] *Shapiro v. Thompson* [99] and *Goldberg v. Kelly*, [100] were three major welfare cases decided by the Supreme Court in 1970's. The change in the judicial response to welfare benefits in many ways have mapped the change in attitude of the Congress. Today courts are far less willing to adopt the broadest interpretation of federal authority, particularly when it impinges upon state activities.

In 1961, the Secretary of Health, Education, and Welfare (HEW), Arthur Flemming, forbade the exclusion of needy children from the AFDC program on the basis of judgments about the morality of their home environments. This constituted the first real attempt by a unified federal welfare executive to impose national standards on state programs. [101] In 1968, the Supreme Court reinforced the Flemming Ruling, recognizing the entitlement provision of the SSA as a source of rights against the states, and supported a new and fragile concept of federal supremacy in welfare administration. [102]

King v. Smith, provided remedies in federal and state courts for decisions by administrators of AFDC and other public benefit programs. In addition to providing a judicial forum to redress rights under federal statutes, *King* and its progeny led to increased efforts to provide lawyers to represent poor persons before federal and state legislative and administrative forums where court-won protections could be taken away and new rights or obligations created. *Shapiro* extended the constitutional protections of the equal protection clause of the fourteenth amendment to welfare recipients and eliminated state-enacted barriers to keep such citizens from residing in states or towns that paid relatively higher welfare benefits. *Goldberg* set the framework for a series of decisions that sought to secure for the poor the right to be free from arbitrary private and government action and to live in human dignity. *Goldberg* was almost immediately narrowed to apply only to clear legal entitlements. In addition, predetermination hearing

requirements were limited to those benefits whose loss was "grievous." [103] However, the right of welfare recipients to some due process before they could be deprived of benefits had been statutorily established. The authors of PRA have carefully constructed the PRA to remove welfare's entitlement status and therefore removed the explicit right to due process before the imposition of sanctions. [104]

This brief background illustrates that a centrally imposed norm of welfare fairness was slow to develop and slower to implement. Even the most superficially innocuous of the Act's principles -- the equitable treatment of individual applicants in a system of uniform statewide administration -- was designed to correct serious race based and value laden disparities in the distribution of benefits. What is alarming to advocates who understand the hard won history of these basic tenets is how lightly the rush to welfare has cast them aside.

Beginning with the Omnibus Budget and Reconciliation Act of 1981, many federal programs were redesigned to shift control of many programs from federal government to the states. The welfare decisions of the 1970's were based on statute, not the Constitution. The latest welfare reform legislation is being crafted with a careful eye to ensuring that the block grant programs will not give rise to the same claims of entitlement. Though the impact of the earlier cases will be greatly jeopardized by the PRA, there are some parts of the decisions that may still apply. The explicit, yet narrow, protections of *Shapiro v. Thompson* for durational residency requirements remain vital and possibly necessary as states with higher benefits attempt to prevent a perceived influx of non-resident welfare recipients. Though the initial delegation of welfare policy decisions to the states were bound by the procedural protections afforded by Goldberg, the PRA may render this decision inapplicable as the decision was tied to the statutory language of the AFDC. [105]

The court's treatment of legal challenges to state 1115 welfare reforms suggests courts' will not be a successful avenue of support for welfare advocates seeking to stop state cuts to their block grant programs. [106] Though the Supreme Court interpreted the Constitution as guaranteeing an affirmative right to travel to benefit from superior economic opportunity in the welfare context, [107] many states are interested in a residential component to their welfare programs. The Courts have come down differently on the states cutting public assistance costs by residency requirements. [108] The Supreme Court, though prohibiting discrimination based solely upon illegitimacy, did not extend this principle to family caps. In *Dandridge v. Williams*, [109] the Court held that Maryland's version of a family cap that limited the incremental increases in AFDC payments for children born into large families was Constitutionally permissible.

G. The Current Proposal To Block Grant AFDC

1. An Overview of the Personal Responsibility Act of 1995 [110](#)

On March 24, 1995, the House of Representatives passed the Personal Responsibility Act (PRA). H.R.4 is an omnibus welfare bill that would make sweeping changes in cash welfare, food aid, and services, ending unlimited Federal funding for cash and food aid to eligible needy families with children. The bill would repeal the 60 year-old program of (AFDC) and its corollary JOBS program.

Capped block grants would replace AFDC, Federal nutrition programs, child care

programs, and child 'protection' programs, such as foster care, adoption assistance and child abuse programs. Although the House passed bill would not replace Food Stamps with a block grant, as proposed in the original H.R.4, it would restrict benefit increases and give states significant power to determine Food Stamp benefits for families receiving cash welfare.

Under the bill, fixed block grants to States for Temporary Assistance to Needy Families (TANF) would replace AFDC, which now makes payments to 9.4 million children in almost 5 million families. The bill would end the states' entitlement to unlimited Federal funding for reimbursement of a share of their spending for cash benefits and child care for needy families and their entitlement to capped matching funds for education, work and training of welfare recipients (through JOBS). It would also end the entitlement of eligible individual families to benefits.

The Congressional Budget Office estimates that over 5 years, the PRA would cut direct Federal outlays for family cash aid and education/work/training for welfare recipients by \$9 billion. [111] In the fifth year, according to CBO, these 'family support' payments would be about 20% smaller than under current law. [112] The Department of Health and Human Services (DHHS) estimates that in the fifth year, about 1.5 million children who would have been aided by AFDC would be barred from cash aid by TANF rules. [113] States could not use TANF funds for cash payments to children of unmarried mothers under age 18 (until the mothers reached 18) or to children born to families already receiving TANF, however, they could use the funds for non-cash aid (other than medical services) for these or other children.

The PRA imposes time limits on duration of aid (2 years for benefits not conditioned on work, 5 years overall) and required states to give priority to work rather than education in efforts to end welfare dependence. To receive its full block grant, a state would have to achieve minimum rates of participation by recipient families in a job, work experience, or on the job training at least half time (30 hours weekly for two parent families). States would have full authority to set benefit levels, income and resource limits, rules about earnings and general administrative procedures, and they no longer would have to help pay the cost of benefits. States would operate child support enforcement programs, foster care, and adoption assistance programs (under 'child protection' block grants), but they no longer would have to guarantee child care for welfare families needing it. TANF families would be eligible for Food Stamps, but states could change terms of their food benefits. Medicaid would continue for TANF families and for those who though ineligible for TANF, would have been eligible for AFDC under previous law.

2. Comparison of House vs. Senate passed versions of H.R.4 [114](#)

The House of Representatives and the Senate Finance Committee have approved different versions of H.R.4. The bills are currently in a joint Congressional committee undergoing reconciliation. The Senate Committee bill, approved on May 26, 1995, is entitled the Family Self Sufficiency Act. [115]

The Senate version that merely modifies the JOBS program, by repealing the AFDC's JOBS program altogether. The House bill would establish capped block grants to replace federal child nutrition programs, child care programs, and child protection programs. In several ways the bills treat needy families with children differently. For example, the

House bill bans TANF cash for specified children (those with unwed mothers under 18 and those born to families already receiving cash aid) and for most non-citizens. The Senate bill bans no children from TANF and lets states decide whether to use funds for non-citizens. The house bill replaces adoption assistance and foster care, which serve AFDC -- or SSI eligible children, with a new capped block grant. The Senate bill continues the existing program of unlimited federal matching for adoption assistance and foster care.

The Congressional Budget Office (CBO) has estimated that over 5 years direct federal spending for 'family support' would be reduced by about \$9 billion (not counting some \$6.2 billion in welfare-related child care, converted to discretionary spending) in the House bill and by about \$7.7 billion in the Senate bill. [116] Reductions in case aid would be partly offset by higher spending for food stamps.

3. Estimated California Allocation under the Proposed Block Grant for Temporary Assistance for Needy Families (Title I of H.R.4). [117](#)

Under the current system, states must spend their own funds to qualify for assistance under AFDC, EA, and JOBS, but for AFDC and EA unlimited Federal matching funds are available. H.R.4 imposes no requirement on states to maintain spending in order to receive the block grants.

The proposed block grant would be an entitlement to the states, with the overall U.S. total and each state's allotment based on authorizing legislation. Each state's share of the grant would be based on its historical share of the national total for AFCC, EA, and JOBS. Under the formula, each State's FY 1996 grant amount would be based on the greater of (1) average Federal obligations to the State for FY 1992 through FY 1994; or (2) the Federal obligations to the state for FY 1994 for these programs. The obligations would be adjusted to conform with the national cap of \$15,390.295 million.

California could expect to receive \$3,491.9 million in FY1996. Projections suggest that California will be eligible for \$3,511.0 million by the FY2000. [118]

States could receive an increase in their entitlement beginning in FY 1998 if its "illegitimacy ratio" decreases. [119] Beginning in FY1998, a state's entitlement would be increased 5% if this ratio falls by at least 1 percentage point from its FY1995 level. A state's entitlement would be increased 10% if this ratio falls by at least 2 percentage points from its FY1995 level.

States experiencing additional needs during a period of high unemployment would be eligible for the 'rainy day' fund. H.R.4 provides \$1 billion in budget authority for loans that can be repaid over a period of 3 years. The loans cannot exceed the lesser of \$100 million or 50% of the state grant, and must be repaid at the market rate of interest. [120]

4. Advantages of Block Granting Social Services

Block grants are broader in scope and offer greater state flexibility in the use of funds than categorical programs; in addition, block grants allocate funding on the basis of statutory formula. Block grants have been associated with a variety of goals, including encouraging administrative cost savings, decentralizing decision-making, promoting

coordination, spurring innovation, and providing opportunities to target funding. However, block grants have historically accounted for and targeted only a small portion (11 percent) of grants to states and localities. [121]

In general, the 1981 OBRA transition from categorical programs to block grants was smooth. In seven of the nine areas covered by the block grants, states had extensive experience from operating the categorical programs replaced by the block grants. States relied on existing management and service delivery systems. Though federal grants significantly reduced the reporting requirements of the state programs, most states continued to maintain the same level of data collection for their own management purposes. However, this data differed from state to state and was unusable at the federal level due to the lack of comparability.

States reported that reduced federal application and reporting requirements had a positive overall effect on their management of block grant programs. In addition, some state agencies were able to more productively use their staffs, as personnel devoted less time to federal administrative requirements and more time to state level program activities. Although states realized considerable management efficiencies or improvements under the block grants, they also experienced increased grant management responsibilities because they had greater program control. Though states were able to handle the relatively small transfer of responsibility from the federal government to the states in 1981, the current proposal will be more challenging. Not only is the transfer on a much larger scale, but the states have little experience with cash-based programs like AFDC.

Though these grants were intended to increase states' flexibility in implementing their own programs, over time Congress imposed a number of additional funding constraints. In part these constraints were imposed due to Congressional concern that states were not adequately meeting national needs, in effect recategorizing the programs.

5. Disadvantages of Block Granting Social Services

A review of the 1981 block granting of family planning programs illustrates the effects of retrenchment and devolution on the recipients. Advocates claimed that 'the funding cuts would be offset virtually in their entirety by the administrative savings that block grant simplification would make possible,' but this claim simply was not supported by experience in the states. All of the states in the Urban institute sample characterized any reduction in paper-work and other administrative costs 'as small relative to initial federal funding reductions.' In fact, some states reported doing more administrative work for the block grants, such as public hearings, planning, and processing proposals from local areas. [122]

Devolving more health programs to the states through block grants meant more state variation in the types of services offered and the levels of support provided. Research suggested that states allocated funds based on the individual state's experience with a given program and the strength of statewide constituency groups. [123]

6. Assessing the Formula for Dispersing Block Grant Funding

Initially, most federal funding to states was distributed on the basis of their share of funds received under the prior categorical programs in fiscal year 1981. Such distributions may

not be sensitive to populations in need, the relative cost of services in each state, or states, ability to fund program costs. Today, most block grants use formulas that more heavily weigh beneficiary population and other need based factors.

Congress will need to make tough decisions on block grant funding formulas. Three characteristics of formulas to better target funds include: (1) factors that consider state or local needs, (2) factors that consider difference among states in the cost of providing services, and (3) factors that consider state or local ability to contribute to program costs. Another possible consideration is willingness of the state to participate. Some poverty analysts predict Southern states in particular will engage in a "race to the bottom" process that will use up its portion of aid as quickly of possible in order to encourage welfare recipients to move to other states with better benefits. Thereby making the state fiscally stronger and attracting businesses to locate there.

Conclusion

The PRA removes the entitlement status once accorded to AFDC. There would no longer be a guarantee that those in need will automatically receive any assistance. Funding levels will no longer respond automatically to increased need during economic downturns or to increase in the size of the poverty population. Each state can determine who, among the needy, will and won't receive benefits and those denied benefits no longer have a clear legal recourse. Once a state exhausts its annual allotment, those who fall prey to catastrophe will simply have to wait in line.

Poverty policy researchers point out the ease of cutting block grants, as opposed to specific programs. The PRA already include budget cuts, and additional cuts are foreseeable. Though states may welcome the flexibility that comes with block grants, they are likely to find the allotments inadequate.

Notes

[1] Joel Handler, *The Transformation of Aid to Families With Dependent Children: The Family Support Act in Historical Context*, 16 N.Y.U. REV. L. & SOC. CHANGE 457, 462-66 (1988). ([return to text](#))

[2] *Id.* at 490. ([return to text](#))

[3] G. Himmelfarb, *The Idea of Poverty: England in the Early Industrial Age* (1984); M. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (1986). ([return to text](#))

[4] The categorical approach has remained a basic characteristic of American social policy. Joel Handler, "*Constructing the Political Spectacle*," 56 Brooklyn L. Rev. 899, 909 (1990). ([return to text](#))

[5] Frances Fox Piven & Richard Cloward, *Regulating the Poor: The Functions of Public Welfare* 48 (1971). ([return to text](#))

[6] 82% of participants were widows, and 96% were white. Winifred Bell, *Aid to Dependent Children 9-13* (1965). ([return to text](#))

- [7] Shelia Rothman, *Woman's Proper Place* 221-24 (1978). ([return to text](#))
- [8] Handler, *supra*, note 1 at 494. ([return to text](#))
- [9] Piven & Cloward, *supra* note 5, at 66-67. ([return to text](#))
- [10] Federal Emergency Relief Act of 1933, Pub. L. No. 73-15, ch. 30, 4(a), 49 Stat. 57. ([return to text](#))
- [11] Arthur Schlesinger, Jr., *The Age of Roosevelt: The Politics of Upheaval* 267 (1960). ([return to text](#))
- [12] Katz, *supra* note 3, at 238-9. ([return to text](#))
- [13] Social Security Act Amendments of 1950, Pub. L. No. 81-734, 323, 64 Stat. 477, 551 (codified as amended at 42 U.S.C. 606 (1989.)) ([return to text](#))
- [14] Economic Security Act; Hearings Before the House Comm.. on Ways and Means on H.R. 4120, 74th Cong., 1st Sess. 36 (1935). ([return to text](#))
- [15] H.R. Rep. No. 615, 74th Cong., 1st Sess. 24 (1935); S. Rep. No. 628, 74th Cong., 1st Sess. 36 (1935) ("[The State] may furthermore, impose such other eligibility requirements -- as to means, moral character, etc. -- as it sees fit.") ([return to text](#))
- [16] M. Abramovitz, *Regulating the Lives of Women: Social Welfare Policy from Colonial Times to the Present* 315 (1988). ([return to text](#))
- [17] G. Steiner, *Social Insecurity: The Politics of Welfare* 18-26 (1966). The thinking at the time was that as Old Age Insurance program of the SSA, would eventually cover the widows and that ADC would be phased out. ([return to text](#))
- [18] The scholarship of theorist Charles Reich was instrumental in establishing the notion of welfare benefits as an entitlement. The "dependency" concept has always played a role in the cash assistance debate. Compare Charles Reich, *The New Property*, 73 *Yale L.J.* 733, 785 (1964) with Lawrence Mead, *Beyond Entitlement: The Social Obligations of Citizenship* 41 (1986) (arguing that cash assistance undermines the work ethic and promotes undo reliance on the government). ([return to text](#))
- [19] *Goldberg v. Kelly*, 397 U.S. 254 (1970). ([return to text](#))
- [20] *Id.* at 265. ([return to text](#))
- [21] Joel Handler & Yeheskel Hasenfeld, *The Moral Construction of Poverty: Welfare Reform in America* 117-18 (1991). The states' power to legislate morality through the categorical and financial eligibility requirement of the AFDC program was limited in *Lewis v. Martin*, 397 U.S. 552 (1970) (invalidating regulation allocating to mother for purposes of AFDC income of man who shares her home with no legal obligation of support) and *King v. Smith*, 392 U.S. 309 (1968) (holding unconstitutional Alabama's disqualification from AFDC any mother cohabitating with man who was not obligated to provide support). ([return to text](#))
- [22] Mildred Rein, *Dilemmas of Welfare Policy: Why Work Strategies Haven't Worked* 6

(1982). ([return to text](#))

[23] Handler, *supra* note 4, at 943. ([return to text](#))

[24] From Quality Control to Quality Improvement in AFDC and Medicaid, 124-25 (F. Kramer, ed. 1988). ([return to text](#))

[25] Handler, *supra* note 4, at 923. ([return to text](#))

[26] *Law, Women, Work, Welfare and the Preservation of Patriarchy*, 131 U. Pa. L. Rev. 1249, 1262 n.48 (1983). ([return to text](#))

[27] J. Gordon, *WIN Research: A Review of the Findings in The Work Incentive Experience* 42-50, 67, 77 (Gavin & Reid, eds. 1978). ([return to text](#))

[28] Handler, *supra* note 4, at 925. ([return to text](#))

[29] J. Quadagno, *Race, Class, and Gender in the US Welfare State: Nixon's Failed Family Assistance Plan*, 55 Amer. Soc. Rev. 11 (1990). ([return to text](#))

[30] Joel Handler & Yeheskel Hasenfeld, *The Moral Construction of Poverty: Welfare Reform in America* 172 (1991). The San Diego experiment influenced the California GAIN program, which in turn, became a model for the Family Support Act JOBS program. *Id.* ([return to text](#))

[31] *Id.* at 183. ([return to text](#))

[32] Barbara Goldman, et. al., *Manpower Demonstration Research Corp., California: The Demonstration of State Work/Welfare Initiatives, Findings from the San Diego Job Search and Work Experience Demonstration*, at xxii (1985). ([return to text](#))

[33] David Kirp, *The California Work/Welfare Scheme*, 83 Pub. Interest 34, 38 (1986). ([return to text](#))

[34] Handler & Hasenfeld, *supra* note 29, at 190-6. ([return to text](#))

[35] Chuck Lieberman, et. al, *Legislative Analyst's Office: California's AFDC Program, Current Trends, Issues and Options* (1991). ([return to text](#))

[36] *Id.* at 9. ([return to text](#))

[37] Handler & Hasenfeld, *supra* note 29, at 193. ([return to text](#))

[38] *Id.* at 194. ([return to text](#))

[39] John Wallace et. al., *Manpower Demonstration Research Corp., The Greater Avenues for Independence (GAIN) Program: Planning and Early Implementation* 185 (1987). ([return to text](#))

[40] James Riccio et. al., *Manpower Demonstration Research Corp, Executive Summary, GAIN: Benefits, Costs and Three Year Impacts on a Welfare to Work Program* (1994). ([return to text](#))

[41] *Id.* ([return to text](#))

- [42] From Quality Control to Quality Improvement in AFDC and Medicaid, 124-25 (F. Kramer, ed. 1988). ([return to text](#))
- [43] *Id.* ([return to text](#))
- [44] Family Support Act of 1988, Pb. L. No. 100-485, 102 Stat. 2342. ([return to text](#))
- [45] Joel Handler, *The Transformation of Aid to Families With Dependent Children: The Family Support Act in Historical Context*, 16 N.Y.U. Rev. L. & Soc. Change 457, 490 (1988). ([return to text](#))
- [46] 42 U.S.C. 602 (1988). ([return to text](#))
- [47] Handler, *Transformation*, *supra* note 44 at 491-506. ([return to text](#))
- [48] Title II, 42 U.S.C. 602 (1988). JOBS replaced the Work Incentive Program (WIN), Title IV, Parts A & C of the Social Security Act of 1967, 42 U.S.C. 602 (1967). ([return to text](#))
- [49] J. Kosterlitz, *Reworking Welfare*, 24 Nat'l J. 2189 (Sept. 26, 1992). ([return to text](#))
- [50] *Id.* ([return to text](#))
- [51] D. Ellwood, *Poor Support: Poverty in the American Family* 119-21 (1988). ([return to text](#))
- [52] Lucie A. White, *The Ideology of Division: Behavior Modification Welfare Reform Proposals*, 102 Yale L.J. 719-720 (1992). ([return to text](#))
- [53] Joel Handler, *"Ending Welfare as We Know It" Wrong for Welfare, Wrong for Poverty*, 2 Geo. J. on Fighting Poverty 3, 10 (1994). ([return to text](#))
- [54] Green Book: House Comm. on Ways and Means, *Overview of Entitlement Programs (hereinafter "Green Book")*, Committee on Ways and Means, U.S. House of Representatives, Washington: U.S.G.P.O. 1152 (14th ed. 1994). ([return to text](#))
- [55] *Id.* at 399. ([return to text](#))
- [56] National Research Council, *Losing Generations: Adolescents at Risk* (1993). ([return to text](#))
- [57] *Id.* at 44. ([return to text](#))
- [58] Joel Handler, *"Ending Welfare as We Know It" Wrong for Welfare, Wrong for Poverty*, 2 Geo. J. on Fighting Poverty 3, 10 (1994). ([return to text](#))
- [59] *Id.* ([return to text](#))
- [60] Rebecca Blank, *Are Part Time Jobs Bad Jobs?* in *A Future of Lousy Jobs. The Changing Structure of U.S. Wages* 123,125 (Burtless ed., 1990). ([return to text](#))
- [61] Chris Tilly, *Econ. Pol'y.*, *Short Hours, Short Shrift: Causes and Consequences of Part Time Work* 4-5 (1990). ([return to text](#))

[62] *Id.* ([return to text](#))

[63] Kathryn Edin & Christopher Jencks, *Reforming Welfare*, in *Rethinking Social Policy: Race, Poverty and the Underclass* 204 (1992). ([return to text](#))

[64] From Quality Control to Quality Improvement in AFDC and Medicaid, 124-25 (F. Kramer, ed. 1988). ([return to text](#))

[65] D. McFarlane, *Restructuring Federalism: The Impact of Reagan Policies on the Family Planning Program*, 18 *J. Health Pol. Pol'y, & L.* 821 (1993). ([return to text](#))

[66] *Id.* ([return to text](#))

[67] *Id.* at 822. ([return to text](#))

[68] *Id.* at 822. ([return to text](#))

[69] McFarlane, *supra* note 65, at 822. ([return to text](#))

[70] Peterson et. al. 1986, *The Reagan Block Grants: What we learned?* Washington D.C.: Urban Institute Press. ([return to text](#))

[71] *Id.* at 823. ([return to text](#))

[72] *Id.* at 823. ([return to text](#))

[73] 42 U.S.C. 604 (1988). ([return to text](#))

[74] Public Welfare Amendments of 1962, Pub. L. No. 87-543, tit. 1, 122, 76 Stat. 172, 192 (codified as amended at 42 U.S.C. 1315 (1988)). ([return to text](#))

[75] Transcript of Bush's State of Union Message: 'Let's Build on our Strengths,' N.Y. TIMES, Jan. 29, 1992, at A17. ([return to text](#))

[76] 42 U.S.C. 1315 (1988). ([return to text](#))

[77] S. Bennett, *Disentitling the Poor: Waivers and Welfare Reform*, 26 *U. Mich. J.L. Ref.* 741, 742 (1993). ([return to text](#))

[78] *Id.* ([return to text](#))

[79] See, e.g., *Green v. Anderson*, 811 F. Supp. 516 (E.D.Ca. 1993). ([return to text](#))

[80] Lucie White, *The Ideology of Division: Behavior Modification Welfare Reform Proposals*, 102 *Yale L. Rev.* 719. ([return to text](#))

[81] Family Support Act, Part A - AFDC, 42 U.S.C. 602 (1988). ([return to text](#))

[82] See section X on 1115 Waivers. ([return to text](#))

[83] Tamar Lewin, *A Plan to Pay Welfare Mothers for Birth Control*, N.Y. Times, Feb. 9, 1991, at A9. ([return to text](#))

[84] Title VII of The Personal Responsibility Act of 1995 further expands both state and

recipient responsibilities for collection of child support. 141 Cong. Rec. H3449-04. ([return to text](#))

[85] 1994 Green Book, *supra* note 54, at 399. In 1972, 5.13% of the U.S. population received AFDC. In 1992, the rate was 5.34%. In 1989, the rate reached a 20 year low of 4.38%. ([return to text](#))

[86] Almost half of the children in families that receive AFDC are less than six years old, and about a quarter are under three years old. *Id.* at 401. ([return to text](#))

[87] *Id.* at 402. ([return to text](#))

[88] *Id.* ([return to text](#))

[89] 1994 Green Book, *supra* note 54, at 402. ([return to text](#))

[90] *Id.* at 440. ([return to text](#))

[91] Mark Greenberg, Center for Law and Social Policy, Beyond Stereotypes: What State AFDC Studies on Length of Stay Tell Us About Welfare as a Way of Life, 3 (1993). ([return to text](#))

[92] *Id.* at 7,8. ([return to text](#))

[93] *Id.* ([return to text](#))

[94] *Id.* at 36. ([return to text](#))

[95] *Id.* at 2. ([return to text](#))

[96] *Id.* ([return to text](#))

[97] *Handler, supra* note 57, at 13. ([return to text](#))

[98] 392 U.S. 309 (1968). ([return to text](#))

[99] 394 U.S. 618 (1969). ([return to text](#))

[100] 397 U.S. 254 (1970). ([return to text](#))

[101] *Handler, supra* note 57 at 16. ([return to text](#))

[102] *King*, at 333. ([return to text](#))

[103] *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976). ([return to text](#))

[104] Vee Burke, Welfare Reform: how the House Passed Bill Would Change Family Cash Welfare, 95-495 EPW (1995). ([return to text](#))

[105] A. Houseman, *The Vitality of Goldberg v. Kelly to Welfare Advocacy in the 1990's*, 56 Brook. L. Rev. 831 (1990). ([return to text](#))

[106] See the Court's posture favoring the state's ability to use its discretion in formulating welfare reform. *Aguayo v. Richardson*, 473 F.2d 1090 (2d Cir. 1973); *Crane v. Matthews*,

417 F.Supp. 532 (N.D. Ga. 1976). ([return to text](#))

[107] *Shapiro v. Thompson*, 394 U.S. at 630-1. ([return to text](#))

[108] One case has upheld a welfare rule authorizing the payment of less generous benefits to recent state entrants, *Jones v. Milwaukee County*, 485 N.W.2d 21 (Wis. 1992), whereas two have struck down differential payment schemes as unconstitutional, *Green v. Anderson*, 811 F.Supp. 516 (E.D.Cal 1993); *Mitchell v. Steffen*, 504 N.W.2d 198 (Minn. 1993). ([return to text](#))

[109] 397 U.S. 471 (1970). ([return to text](#))

[110] Vee Burke, Family Cash Welfare: Comparison of House Passed and Senate Finance Committee Versions of H.R.4, 95-691 EPW (1995). ([return to text](#))

[111] Burke, at 2. ([return to text](#))

[112] *Id.* ([return to text](#))

[113] *Id.* ([return to text](#))

[114] *Id.* ([return to text](#))

[115] Burke, at 3. ([return to text](#))

[116] *Id.* ([return to text](#))

[117] Gene Falk, Welfare Reform: Estimated State Allocations Under the Proposed Block Grant for Temporary Assistance for Needy Families, Title I of H.R.4, 95-377 EPW (1995). ([return to text](#))

[118] *Id.* at 2. ([return to text](#))

[119] "Illegitimacy ratio" is defined as the ratio of out of wedlock births plus the increase in abortions to the number of births in a state. ([return to text](#))

[120] *Id.* ([return to text](#))

[121] S. Bennett, Disentitling the Poor: Waivers and Welfare Reform, *supra* note 78, at 750. ([return to text](#))

[122] McFarlane, *supra* note 65, at 843. ([return to text](#))

[123] *Id.* at 844. ([return to text](#))