

How the Bankruptcy Bill Will Affect Women and Children Owed Child Support

Joan Entmacher, Vice President and Director, Family Economic Security

- **The domestic support provisions are irrelevant to women owed child support who file for bankruptcy themselves.** Women filing independently, including about 200,000 mothers owed child support (slightly more than the number of child support creditors), are 39% of bankruptcy filers: more than single men (29%) and married couples (32%). Nine out of 10 women file for bankruptcy as a result of family breakup, job loss, or medical expenses. For information about how the bill would affect them, see <http://www.nwlc.org/pdf/BankruptcyBillHarmfulToWomen2003.pdf>
- **The domestic support provisions do not protect women who are child support creditors in bankruptcy from increased competition from commercial creditors.** Bankruptcy is a zero-sum game. The rest of the bill gives many commercial creditors, including credit card companies, finance companies, and auto lenders, greater claims to a debtor's limited resources during and after bankruptcy. The domestic support provisions do not prevent these creditors from getting a bigger share of the debtor's limited resources at the expense of mothers and children owed support.
 - In ch. 7, moving child support to "first" priority is meaningless. Less than 4% of ch. 7 debtors have assets to distribute now. With the bill's means test limiting access to ch. 7, that number will likely be even smaller in the future.
 - In ch.13, current law requires that child support *owed to families* be paid in full for plan confirmation and discharge. But the bill inflates the payments that must be made under the plan to many "secured" creditors holding collateral of limited value. If the debtor's income must be stretched to pay larger amounts to these commercial creditors, payments of past-due child support will have to be made in smaller amounts and over a longer period of time, increasing the risk that child support will not be paid in full. Saying that child support must be paid in full won't make it happen if there isn't enough money to go around.
 - After bankruptcy, bankruptcy priorities are legally irrelevant. Under current law, child support is among the few nondischargeable debts; debtors who get a fresh start have a better chance of making on-going child support payments. Under the bill, more debts, including high interest credit card debt, will survive. On paper, child support agencies have many enforcement tools; but in practice, credit card companies have a better collection record. And these still financially strapped debtors are more likely to move, change jobs, and be harder to collect from.
 - Some domestic support provisions (e.g., excepting more types of child support enforcement from the automatic stay) are positive, but for families, these procedural improvements are outweighed by the problems with the rest of the bill.
- **States as creditors are the big winners from the domestic support provisions.** Current law makes child support owed directly to families a priority in bankruptcy, but child support assigned to the state to reimburse public assistance is not. Child support assigned to the state is currently nondischargeable, but some debts owed to the state for the support of a debtor's child can be discharged in bankruptcy. The bill would define all these debts to states as "domestic support obligations" and make them priority debts in bankruptcy.