

SOCIAL SECURITY ACT OF 1935

TITLE IV, PART D

UNITED STATES CODE  
TITLE 42, § 651 THRU 669b

RESEARCH PAPER AND CASES

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***“Do not separate text from historical background. If you do, you will have perverted and subverted the Constitution, which can only end in a distorted, bastardized form of illegitimate government.”***

**James Madison**

***“on every question of construction [of the constitution] let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or intended against it, conform to the probable one in which it was passed.”***

**Thomas Jefferson**

***“You are a member of government, and one of that majority which has doomed by country to destruction. You’re begun to burn our towns and murder our people. Look upon your hands, they are stained with the blood of your relations. You and I were long friends. You are now my enemy and I am yours.”***

**Benjamin Franklin 7-5-1775**

## Original Meaning of the Constitution

This question has been determined at length. It is clear that all legal questions are to be “interpreted” by the courts in the original meaning of the Constitution.

“All acts of the legislature apparently contrary to natural rights and justice are, in out law and must be in the nature of things, considered as void. The laws of nature are the laws of God, whose authority can be superseded by no power on earth. A legislature must not obstruct our obedience to him from whose punishments they cannot protect us. All human constitutions which contradict his (God’s) laws, we are in conscience bound to disobey.”

Robin v. Hardaway, 1 Jefferson 109. (1772)

“Under 18 U.S.C. Sec. 241, 242, it is a criminal offense to act willfully and under color of Law to deprive a person of rights protected by the Constitution or Law of the United States” Kelley v. Johnson, 425 U.S. 238, 244-49, 96 S.Ct. 1440, 1444-46, 47 L.Ed.2d. 708(1976), U.S. v. Lanier 520 US 259, 28 U.S.C. Sec.113, in suits against state officers. 42 U.S.C. Sec. 1983, in suits against federal officers.

“We must strive to restore the Constitution’s rightful place as our forefathers intended. The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when it was adopted, it means now.”

S. Carolina v. US 199 US 437,438(1905)

“On every question of construction (of the Constitution) let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.”<sup>1</sup> “If the Constitution is to be construed to mean what the majority at any given period in history wish the Constitution to mean, why a written Constitution?”<sup>2</sup>

“The Constitution is the law of the land... All laws which are repugnant to it are null and void.” Malbury v. Madison

“It was important to establish orderly government and rights of the people by a written Constitution. It is just as important to preserve these rights as it was to create them, if our form of government is to be maintained.” Boynton v. State 64 So.2d. 536,554 (1953)

“A distinction between illegality at common law and illegality by reason of the provision of a statute was made in the common law, it being said that a “statute is like a tyrant; where he comes he makes all visit; but the common law is like a nursing father it makes void only that part where the fault is, and preserves the rest.” Maleverer v. Redshaw, 1 Mod. 35, 86 reprint 712.

<sup>1</sup> Thomas Jefferson, Letter to William Johnson, June 12, 1823, *The Complete Jefferson*, p. 322.

<sup>2</sup> Frank J. Hogan, President : American Bar

If we are not going to follow the original Constitution, then no law will ever be good, because they (government) will change it at will.

**Objections to State’s involvement in Child Support matters/ unlawful conduct.**

Title IV – Part D  
Title 42 Public Health and Welfare  
Chapter 7 – **Social Security**  
Subchapter IV- **Grants to states** for aid and services to needy families with children for child-welfare services  
Part D – Child support and establishment of Paternity

**Title 42 U.S. C. sections 651 thru 669(b)**

Sec. 651- Authorization of Appropriations...there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

*What are those purposes?*

- 1. Enforcing the support obligations owed by non-custodial parents to their children and the spouse...
- 2. Locating non-custodial parents
- 3. Establishing paternity
- 4. Obtaining child and spousal support
- 5. Assuring that assistance in obtaining support will be available

*Question: No claim here?*

*Answer:* All money spent by the state is covered by Federal Social Security Grant money provided with this appropriations act of Congress.

**Title 42, Sec. 653 – Federal Parent locator Service**

Parents are located under same appropriations Act of Congress: No claim Here!

**Title 42, Sec. 654: State plan for child and spousal support also under Title IV-D-**

Appropriations Act of Congress: No money lost here – No valid claim.

**Title 42, Sec. 654b.- Collection and disbursement of support payments.**

- a. State disbursement unit.
- b. Required procedures ... including:
  - 1. for receipt of payments from parents, employees, and other states, and for disbursements to custodial parents and other obliges, the state agency, and the agencies of other states;
  - 2. for accurate identification of payments;
  - 3. to ensure prompt disbursement of the custodial parents share of any payment; and
  - 4. to furnish to any parent, upon request, timely information on the current status of support payments...

The State of Indiana has failed here on 1, 2, and 3 of this!  
They have lost no money here because it is under the same Appropriations Act of Congress! No valid claim!

**Title 42, Sec. 655 – Payment to states** – only sections with a small percentage claim – 35% in one section and 20% in amount of another section.

Still under Appropriations Act of Congress: the legislatures of the State made this a debt against the State. (a contract) Under the Indiana Constitution we find:

**Article 1 – Bill Of Rights**

Section 22: The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure of sale, for the payment of any debt or liability hereafter contracted: **and there shall be no imprisonment for debt**, except in case of fraud.

If the defendant had been married to Jessica, and got sick, “out of work for a couple of months, the State of Indiana, would help them without any recourse what so every.

**Section 37: There shall be neither slavery, nor involuntary servitude, within the State...**

Child Support Guideline 2: Commentary

An obligor cannot be held in contempt for failure to pay support when there is no means to pay, but the obligation accrues and seems as a reimbursement if the obligor later acquires the ability to meet the obligation.

Note: This guideline is in agreement with the Indiana Constitution:  
The State of Indiana/ DA’s office/ David C. Bonfiglio has violated this clause of their own constitution by arresting my son.  
No lawful claim here either: also still listed as a Grant.

**Title 42, Sec. 655(a) – Provisions for reimbursement of expenses**

For purpose of Section 655 of this title, expenses incurred to reimburse state employment office for furnishing information requested of such offices –  
1. pursuant of sec. 496(b) of title 29, or  
2. by a state of local agency charged with the duty of carrying a state plan for child support approved under this part. (Part D)  
Shall be considered to constitute expenses incurred in the administration of such State Plan.

No claim here! All officers expenses reimbursed under same Appropriations Act of Congress. (profit here)

**Title 42, Sec. 656 – Support obligation as obligation to State:  
amount, discharge in bankruptcy:**

a. a debt- owed under state law to a state:

1. child support goes to the custodial parent, it is not a state debt
2. How does anyone make a debt out of a grant?

Grant- a gift or bestowal by one having control or authority over it, and land or money. Black's law dictionary. 6<sup>th</sup> ed. p. 699

**This violates Title XI of the Social Security Act 1935 and the Maternity Act of 1921:  
TITLE XI – GENERAL PROVISIONS**

**DEFINITIONS**

Section 1101. (a) When used in this Act –

1. The term “State” (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

2. The term “United States” when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

3. The term “person” means an individual, a trust or estate, a partnership, or a corporation.

4. The term “corporation” includes associations, joint stock companies, and insurance companies.

5. The term “shareholder” includes a member in an association, joint stock company, or insurance company.

6. The term “employee” includes an officer of a corporation.

b. The terms “includes” and “including” when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

c. Whenever under this Act or any Act of Congress, or under the law of any state, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

**d. Nothing in this Act shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this Act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child.**

**Maternity Act of 1921**

Chapter 135.- An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes.

**Section 8. ...Nothing in this Act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.**

Let's go back to Part A of same Title 42: Section 608

1. No assistance for families without a minor child.
2. No assistance for families not assigning certain support rights to the state.
  - a. In general: a state to which a grant is made under section 603 of this title shall require, ... that a member of the family assign to the state any rights the a family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance).

Jessica Sluss gave up her rights to this child. Basically, sold him into slavery to the state of Indiana, a municipal corporation. Now the biological father's rights are primary, so therefore we require Christopher Joe Stephens, II to be returned to his father.

The only contract that I see here is between Jessica Sluss and the state of Indiana. The state of Indiana has no claim of right to Christopher Joe Stephens the defendant.

Again, a grant cannot be made mandatory. A grant is free money. This money came to the government pursuant of:

Title 31, USC 321(d)(1) & (d)(2): for purpose of this chapter federal income... taxes are considered a gift or bequest to the United States.

Then:

Title 42, USC 401(i)(1): Managing trustee may received from the United States gifts or bequests, made unconditionally, to the Federal Old Age survivor insurance Fund (Social Security)

Also see Fleming v. Nestor

No Claim here!, but a lot of profit under false pretenses.

## **TITLE XIII – TAXES WITH RESPECT TO EMPLOYMENT**

### **Sec. 809. Sale of Stamps by Postmaster**

The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 807 **for the collection or payment of any tax imposed by this title...**

#### **Title 42, Sec. 657: Distribution of Collected Support**

##### **(a)(1) Families receiving assistance**

In the case of a family receiving assistance form the state, the state shall –

- a. Pay to the federal government the federal share of the amount so collected; and
- b. return, or distribute to the family, the state share of the amount so collected.

##### **(bb) Reimbursement of government for assistance provided to the family-**

*Question:* Who gave up their rights? We Did Not.

...the state shall return the state share of the amount so collected, and pay to the federal government the federal share of the amount so collected,  
 Why does the federal government have a share? Grants are gifts – unenforceable in any court. The government (Congress) can stop this at any time. See Fleming v. Nestor. 1960  
 No claim here!

### **Title 42, Sec. 658 –Repealed**

**THE TRUTH**—local news, Saturday, December 04, 2004: by Raluca Barzu

The new project is funded through a federal reimbursement program. Bonfiglio said court officials will report budgets quarterly and get reimbursed for two-thirds of the money spent.

“The rest of the money are incentive dollars that the prosecutor’s office gets from collecting child support,” he said.

### **Title 42, Sec. 658(a): Incentive payments to states**

a. In general – In addition to any other payment under this part, the secretary shall, subject to subsection f of this section, make an incentive payment to each state for each fiscal year in an amount determined under subsection b of this section.

b. Amount of incentive payment

1. In general

2. Incentive payment pool

f. In general

v. 454,000,000 for fiscal year 2004

vi. 446,000,000 for fiscal year 2005

vii. 458,000,000 for fiscal year 2006

viii. 471,000,000 for fiscal year 2007

Lowest percentage rate is 50%

Highest percentage rate is 80%

### **Now, Sec. 658(a)**

(b)(5) Maximum incentive base amount

a. In general

b. data required to be complete and reliable

c. state collections base

for purposes of subparagraph (a), the state collections base for a fiscal year is equal to the sum of...

1. **2 times the sum of ...**

(I) the total amount of support collected during the fiscal year under the state plan approved under this part...

Note: According to Indiana website Department of Human Resources the state collected 417,000,000 for fiscal year 2005. In child support, times two this amount is 934,000,000 dollars as this sections collections base...

Motive: is money

Opportunity: child support- corrupt judges violating the law (as is with our case)

Activity: fraud by deception

slavery of your children

fraud against their parents

Good faith exists in every contract. Son of Thunder, Inc. v. Borden's Inc.

### **Title 42, Sec. 667: State guidelines for child support awards**

#### a. Establishment of guidelines; method

Each state, ... the guidelines may be established by law, or by judicial, or administrative action, and shall be reviewed at least once every four years to ensure that their application results in the determination of appropriate child support award amounts. (also see 45CFR 302.56)

Note: Indiana Rules of Court

Child Support Rules and Guidelines

Adopted effective Oct. 1, 1989

Including amendments received through Jan. 1, 2004

Support Rule 1. Adoption of child support rules and guidelines- the Indiana Supremes Court hereby adopts the Indiana Child Support Guidelines.

#### b. Availability of guidelines; rebuttable presumption.

1. the guidelines established pursuant of subsection a if this section shall be made available to all judges and other officials who have the power to determine child support awards within each state.

2. there shall be a rebuttable presumption, in any judicial or administrative preceeding for the award of child support... a written finding a specific finding on the record that the application of the guidelines would be unjust, or inappropriate in a particular case, as determined under criteria established by the state, shall be sufficient to rebut the presumption in that case.

Note: IC 31-16-8-1: child support modify outside of this section.

20% or 12 months also guideline 1 family support act of 1988. PL 100-485, 5103(a)(2)

Also see guideline 1:

2. Situation calling for deviations

\*one of parties is required to travel an unusually long distance in the course of employment on a regular daily basis and incurs and unusually large expense for such travel, and

\*the custodial or non-custodial parent incurs significant travel expenses in exercising visitation

Savannah, GA to Elkhart, Indiana

950 +/- miles one way

Last sentence of same one:

Judges must also avoid the pitfall of blind allowance to the computation for support without giving careful consideration to the variables that require changing the result in order to do justice.

If David Bonfiglio had followed the rules this problem would not have occurred against my family. This is an action for disbarment under 1983.

Indiana code of Judicial Conduct:

“The text of the canons and the section, including the terminology and applications sections, is authoritative.”

“They should be applied consistent with constitutional requirements.”

Canon 3.B. Adjudicative Responsibilities.

2. a judge shall be faithful to the law

Commentary

“A judge must perform judicial duties impartially and fairly.”

Disciplinary Responsibilities.

1. A judge who receives credible information indicating a substantial likelihood that another judge or a candidate for judicial office has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge or judicial candidate has committed a violation of this Code that raises a substantial question as to that person’s fitness for office shall inform the appropriate authority.

Application of the Code of Judicial Conduct

A. Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a magistrate, court commissioner, special master or referee, is a judge within the meaning of this Code.

**Title 42, Sec. 669(b): Grants to states for access and visitation purposes**

- a. In general: the administration for children and families shall make grants under this section to enable states to establish and administer programs and support and facilitate non-custodial parents access to and visitation of their children, by means of visitation enforcement... and development of guidelines for visitation and alternative custody agreements.
- b. amount of grant
  1. 90% of state expenditures during the fiscal year for activities described in subsection a of this section; or
  2. the allotment of the state under subsection c of this section for the fiscal year.
- c. allotment to states
  1. 97-98; or
  2. 100,000 for any succeeding fiscal year

Go back to section 660: Civil action to enforce child support obligation: Jurisdiction of district courts.

**“The district court of the United States shall have jurisdiction under section 652(a)(8) of this title.”**

8. receive application from states for permission to utilize the courts of the United States to enforce court order for support against non-custodial parents and, upon a finding that another state has not undertaken to enforce the court order of the originating state against the non-custodial parent within reasonable time

The United States Supreme Court noted that a parents right to “ the companionship, care, custody, and management of his or her children is an interest far more precious than any property right.” May v. Anderson. 345US 528, 533, 735CT 840, 843 (1952)

Loss of first amendment freedom, for even minimal periods of time, unquestionably constitutes non-reparable injury. Though first amendment rights are not absolute, they may be curtailed only by interest of vital importance, the burden of proving which rests on the government. Elrod v. Burns, 96 S.Ct. 2673; 427 US 347 (1976)

“The parent – child relationship is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection. A parents interest in the companionship, care, custody and management of his or her children rises to a constitutionally secured right, given the continuity of family life as the focus for personal meaning and responsibility. Stanley v. Illinios, 405 US 645, 651; 92 S.Ct 1208 (1972)

“A (one) married father who is separated or divorced from a mother and is no longer living with his child could not constitutionally be treated differently from a currently married father living with his child.” Quillion v. Walcott, 98 S.Ct. 549; 434 US 246, 255-56 (1978)

Law and court procedures that are fair on their face but administered with an evil eye or a heavy hand was discriminatory and violates the equal protection clause of the fourteenth amendment. Yick Wo v. Hopkins 118 US 356 (1886)

The Constitution also protects “the individual interest in avoiding disclosure of personal matters.” Federal courts (and state courts), under Griswold can protect under the life, liberty and pursuit of happiness phase of the declaration of Independence, the right of a man to enjoy the mutual care, company, love and affection of his children, and this cannot be taken away from him without due process of law. There is a family right to privacy which a state cannot invade or it becomes actionable for civil rights damages. Griswold v. Connecticut, 381 US 479 (1965)

**(A parent must be proven to be unfit) again**

Parents rights have been recognized as being “essential to the orderly pursuit of happiness by free men. Meyer v. Nebraska 92 S.Ct. 1208 (1972)

The due process clause of the fourteenth amendment requires that severance in the parent child relationship caused by the state over only with vigorous protection for individual liberty interest at stake. Bell v. City of Milwaukee 746 F2d. 1205; US Ct. App. 7<sup>th</sup> Cir. WI (1984)

**(Parent must be proved to be unfit)**

Fathers enjoy the right to associate with his children which is guaranteed by this amendment first as incorporated in amendment 14 or which is embodied in the concept of liberty as that word is used in the due process clause of the 14<sup>th</sup> amendment and Equal protection clause of the 14<sup>th</sup> amendment. Mabra v. Schmidt 356 F.Supp. 620; DC.WI (1973)

The rights of parents to care, custody, and nurture of their children is of such character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all civil and political institutions, and such weight is a fundamental right protected by this amendment and amendments 5, 9, and 14. Doe v. Irwin 440 F.Supp. 1247; US DC of Michigan (1985)

No bond is more precious and none should be more zealously protected by the law as the bond between parent and child. Carson v. Elrod. 411 F.Supp. 645, 649; DC ED VA (1976)

The non-custodial parent has no way to implement the constitutionally protected right to maintain a parental relationship with his child except through visitation. To acknowledge the protected status of the relationship as the majority does, and yet deny protection under Title 42 USC Section 1983, to visitation, which is the exclusive means of effecting that right, is to negate the right completely. *Wise v. Bravo*, 666 F.2d. 1328 (1981)

The rights of parents to parent child relationships are recognized and upheld. *Fantony v. Fantony* 122 A.2d. 593 (1956); *Brennan v. Brennan*, 454 A.2d 901 (1982)

The individual, and not the State [government], is the source and basis of our social compact and that sovereignty now resides and has always resided in the individual. Everyone of the people of the United States owns a residue of individual rights and liberties which have never been, and which are never to be surrendered to the State, but which are still to be recognized, protected and secured. Individual liberty and rights are inherent, and such rights are not derived from the Constitution, but belong to the individual by natural endowment.

*Colorado Anti-Discrimination Commission v. Case*, 380 P.2d 34,39-40 151 Colo. 235, 245 (Colo. 1962)

The rights of the individual are not derived from governmental agencies, either municipal, state, or federal, or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and are merely reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. The people's rights are not derived from the government, but the government's authority comes from the people. The Constitution but states again these rights already existing, and when legislative encroachment by the nation, state, or municipality invade these original and preserved rights, it is the duty of the courts to so declare, and to afford the necessary relief. *City of Dallas et al. v. Mitchell*, 245 S.W . 944, 945-46 (Tex-1922).

"Decency, Security, and Liberty alike demand that Government officials shall be subjected to the same rules that are commands to the Citizen. In a Government of laws, existence of the Government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."

Justice Brandeis (1928)  
*Olmstead v. United States* Til, U.S. 438 (1928)